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BANAILLI READERSHIP LECTURES, 1929—30

# INDIA AND THE INTERNATIONAL LABOUR ORGANISATION

BY

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## THE INTERNATIONAL LABOUR MOVEMENT.



Let me first of all express my gratitude to the Senate of the Patna University for the honour it has done me in inviting me to deliver this year's Banaili lectures. The courtesy which it has shown me in allowing me a certain measure of latitude in the choice of my subject has placed me under still further obligations to it. While my two predecessors on this platform have dealt with certain aspects of the financial reconstruction of India, I propose today, with your indulgence, to consider the origin and work of the International Labour Organisation and show how our connection with that institution has affected the course of industrial legislation in this country. In doing so, I hope to be able to point out that though, in a sense, "*Geneva dur ast*," still it is very near to us, and that it has a very valuable lesson to teach us as regards one of the most urgent problems—the problem of social reconstruction--which awaits our solution. This problem has now acquired a certain topical interest, since our workers and peasants, constituting the majority of the population, have now lost their sense of pathetic contentment and are launching out into unfamiliar courses in their efforts to obtain economic salvation and political enfranchisement. We are now on the threshold of great constitutional changes which, we hope, will set up a system of democratic government in the country; but democracy will turn out to be a sham and a delusion unless, with the change in the form of government, we are able to abolish helotry of all kinds and set

up in its place a new social order based upon the principles of social justice. In this task, as I shall endeavour to show, Geneva can be of direct material assistance to us. And incidentally, it may also be possible for us to realise that international co-operation as typified by the Geneva organisations, far from being destructive of national patriotism, ennobles it and endows it with even higher moral values. Internationalism is only a clear recognition of the natural independence of all races of mankind and of their equal rights to life, liberty and the pursuit of happiness. It is really the extension to the whole world of the principles which bind together and protect the citizens of all countries; and properly understood, it is founded upon the nations themselves and not upon their suppression. Even the most pronounced nationalist or isolationist will agree that there are certain forces in human development as inexorable as the tides; and nationalism reaching out to internationalism is only a continuation of the great drama of human history which, beginning from the early days of savagery, has passed through the prehistoric village and the mediaeval feudal grouping to the present day State. We are now confronted with a great interrogation mark as to the future; but to see where we are now, and to predict where we shall be a few years hence, it is necessary to take a perspective upon the main currents of human destiny, which have brought us where we are at present. In a way, as an American writer has pointed out, the home of the International Labour Office is symbolic of the unity of history. The building which houses the I. L. O. is the common property of nearly three score nations of every race, colour, religion and continent,

a modest, yet a striking, combined possession of the community of nations; among those who have contributed to it are the descendants of the Greek and Roman Empires in Europe, of the Moghuls in India and of the Aztecs in America. Through its hall pass men from the land that was Gaul, from the Land of the Rising Sun, from the home of the Queen of the Kings of Ethiopia and from our own country of Hindustan. But look for a second out of its windows. There, in the clear waters of the Lake of Geneva, almost within a stone's throw, are a few remaining piles to show where only three or four thousand years ago primitive man used to build his settlement out over the water to protect himself from the wild men and beasts that roamed the nearby shore. The Lacustre and the I. L. O. represent the two great landmarks in the story of human development.

It is, however, impossible for us to paint the origins of the I. L. O. on such a broad canvas. We can take up the tale only from the beginning of the 19th century and trace the two streams which, by their confluence, have resulted in the present organisation. Nor are we able to deal in detail with the double movement from which the organisation has sprung. We can only indicate how, on the one hand, nearly a century ago, the isolated and unorganised workers of Western Europe began to stretch forward their hands across their countries to their brethren in other lands to create a world movement of labour; and on the other, how there was the movement for the international legal protection of labour, dating from almost the same time and gradually gathering strength and momentum as the forces of social reform became more organised and more powerful.



The labour movement today is essentially a world movement and the problems of labour have become world problems. Gone are the days when it was possible to isolate the labour problems of any particular country and to devise solutions for labour ills capable of exclusively national application. Labour today has transcended national boundaries, and the currents and cross-currents of labour aspirations and actions, more often than not, run athwart political frontiers. Instances are not rare in recent labour developments where the action of a particular national labour group has produced repercussions seriously affecting social and economic conditions in other countries. Thus, it is within our recollection how, in the closely inter-related world of today, the recent strike epidemic in the textile industry of Bombay had more far-reaching consequences than the merely local one of hardship imposed on Bombay millowners and textile operatives. Even such a localised cessation of work has, for instance, proved a windfall to the Japanese textile industry, enabling Japanese producers to speed up production to maximum capacity and to find a ready field for the augmented supply of Japanese textiles in a receptive Indian market, bringing about serious maladjustments in the cloth trade of this country. On a more general plane, it has been noticed of late how the emphasis laid by Mahatma Gandhi on *khaddar* has been responsible for the production of corresponding reactions on the textile industry of Lancashire. In this case, though the starting point of the disturbance is economic in character, it will be readily conceded that the after-effects are such as to vitally affect the weal or woe of thousands of textile operatives in distant England. To

resort to one more illustration; the Czarist regime get upset and Lenin is triumphant in establishing a so-called 'dictatorship of the proletariat' in Russia. No longer can this development be treated as an isolated episode in the eventful political history of a semi-asiatic European nation. The effects of such happenings are no longer confined only to the country of their occurrence or solely to the domain of politics. The thousands of miles of central Asia and the formidable Himalayas separating Russia from India notwithstanding, we find the triumph of Lenin raising faint, but responsive, echoes in the heart of the Indian workers' movement. For, have we not ourselves seen those waves of Communist agitation originating in far-away Russia lashing themselves into fury against the bulwarks of Indian trade-unionism and weakening its solidarity by a process of constant erosion? The inroads made on time and space by the triumphs of science have brought about a shrinkage in the boundaries of the world; and it is unwise to overlook the closely interlinked character of labour problems in the greatly constricted sphere in which we live. Therefore, if practical and useful results are to be obtained from our study of "India and the I. L. O.," the subject has to be approached with an international perspective. It is thus necessary to attempt a bird's eye view, so to say, of the progress and present stage of development of the international labour movement which forms an essential background to our present investigation.

The international labour movement, composed as it is today of some seventy different organisations with a membership of about 22 million organised workers, is a gigantic movement which has spread itself to almost

every civilised country in the world. The differing policies enunciated, the varying programmes adopted, and the separate and often shifting lines of action advocated by the principal international labour groups render a study of the development of these heterogeneous labour bodies an extremely complicated one. The main lines of stratification inside the movement are defined by the tendencies or points of view adopted by the principal groups that dominate the labour field today. Classified according to this criterion, the labour organisations of the present can be divided into five main categories, each having its own distinctive point of view and its own separate organisation by which it maintains its hold on the rank and file of its supporters and through which it manages its own administrative affairs and expresses itself on questions of general labour policy. These five main types are: the <sup>1</sup>Socialistic group with its general organisation, the International Federation of Trade Unions, or 'Amsterdam'<sup>as</sup> it is called, having as its adherents the majority of the labour groups of Great Britain, France, and Germany; the <sup>2</sup>Non-Partisan group represented by the Pan-American Federation of Labour with its following exclusively confined to America; the Communist group represented by the Red International of Labour Unions, which has its headquarters at Moscow; the <sup>3</sup>Syndicalist group represented by the International Workingmen's Association consisting of small dissident labour groups, mainly in Germany, Sweden and Holland, believing in the revolutionary reorganisation of society by means, and on the basis, of trade unions; and the Christian group represented by the International Federa-

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\* The head office of the I. F. T. U. has now been shifted back from Amsterdam to Berlin.

tion of Christian Trade Unions, whose leading characteristic is the postulation of an essentially Christian approach to the problems of labour, as distinguished from the socialistic views of 'Amsterdam' and the class-war point of view so strenuously advocated by Moscow. Besides these, there are several miscellaneous labour groups which defy classification because of their having no international affiliations or no distinctive points of view, conspicuous examples in this category being the Australian trade unions and the Fascist unions of Italy. The numbers and differing view-points of these labour bodies, all claiming to advocate the real interests of labour and yet sharply divided amongst themselves, provoke the query how all these separate organisations have come into being and what the causes at work behind these stratifications are. For a full and correct comprehension of the issues so raised, one has to hark back a little, and trace the principal developments in the labour sphere during the eventful century 1830—1930. One could then see the glorious panorama of labour progress unfolding itself from humble and parochial origins, through early years of obscurity and difficulties, to the stage of adolescence characterised by tentative and hesitant attempts at extra-national contacts, and finally to its present acknowledged international status.

It is a colourful segment of history, mostly relating to the progressive countries of Western Europe,—England, France, Germany, Belgium, Holland and Sweden,—that engages our attention in this context. For convenience of treatment and facility of study, we may divide into five main sections the period 1830-1930, the brief span of a hundred years into which the labour move-

ment, essentially a product of the present age, has crammed a measure of growth and achievement that would have taken movements belonging to the earlier and more slow-moving times many centuries for realisation. These divisions are: (1) 1830-1847—the period characterised by the consolidation of national trade union movements; (2) 1864-1889—the period of the rise and fall of the First International; (3) 1890-1914—the period dominated by the Second International and culminating in the Great War; (4) 1914-1918—the years of confusion during the pendency of the Great War, in which national labour groups, forgetting working-class solidarity, waged war on each other; and (5) 1918-1930—the period in which labour organisations, rehabilitating themselves after the rack and ruin wrought by the war, have ranged themselves in hostile camps under the banners of ‘Amsterdam’ and ‘Moscow’ respectively, and, in their pursuit of numerical superiority and positional advantage, are actively engaged in canvassing the support and adherence of the infant trade union movements of the East. I need hardly point out that these divisions are adopted only for convenience of treatment and that they should by no means be taken as rigidly distinctive periods that lend themselves to compartmental treatment. In this lecture, I shall attempt a sequential treatment of each of these periods directing attention to the main trends of development of labour thought and action, to the chief labour organisations, their programmes and policies, and to the giant personalities that dominate the labour horizon and invest the dry bones of labour history with the glow of living enthusiasm.

The period 1830-1847 witnessed the accomplishment of the first stage of labour's long and arduous pilgrimage to the goal of internationalism. It was during the beginning of this period that workers in the principal industrial countries of Western Europe began to be stirred by the dawning consciousness of a common bond of unity. The propagation of the idea that labour's interests were everywhere the same was helped in a large measure by certain political and economic factors which were operative at that time. The mass migration movements which began to develop in the first decades of the 19th century invested labour with greater mobility than ever before. Pressure of scarcity, dearth of suitable employment and rising standards of living, all combined to make labour more migratory, a development which incidently fostered the cultivation of extra-national labour contacts. Further, the ruthlessness of the competitive industrial system, which about this time was growing into its prime, its blatant individualism and remorseless processes, generated an increasing class-consciousness among the workers. In the resultant economic conflicts between employers and employees, the newly-developed class-loyalty of the workers helped them to make common cause and present a united front to the employing classes, ignoring national boundaries which hitherto had kept them in helpless isolation. The stimulus for international action thus generated was further strengthened by the steady growth, during the period, of democratic ideas which were uncompromisingly insistent on the equality of rights and status of all men. In particular, socialism, which had entered on a stage of precocious development at this period through the pioneer efforts of such persons as Robert Owen and Thomas

Hodgkinson in England, and St. Simon, Fourier and Pierre Leroux in France, provided an ideal milieu for the sympathetic reception of the demands of awakened labour, inducing as it did a desire in the minds of social reformers and humanitarians generally to help the labour under-dog against the soul-killing exactions of the industrial system. A school of thought thus gradually came into being which invested the socialist ideal of labour emancipation with religious sanctity. The prophet of the new cult was Karl Marx, under whose inspiring and dynamic leadership the First Labour International was started in 1864. Though I am anticipating the course of events, I may mention here, in parenthesis, that the history of the international labour movement is largely the history of the First, Second and Third Internationals, the creation of which, however, was made possible only by the workers having already organised themselves in national groups on a class-basis. Workers' internationalism was the result of the joint action of two powerful social tendencies which were then at work. On one side, owing to the economic and political factors, such as mass migration, the iniquities of the industrial system and the rising surge of democratic ideas to which reference has been made, the workers were themselves beginning to feel class-conscious and to assert their rights in the industrial field. On the other side, a converging movement was almost contemporaneously set afoot by a group of labour intellectuals, including Karl Marx, Friedrich Engels and others, who supplied labour with its basic articles of faith, its separate political testament, its distinctive programmes and policies, its peculiar fighting slogans and finally with

its scheme, however crude and rudimentary, of international action.

A careful study of the period 1830-1847, which witnessed the consolidation of national trade unionism in England, France and the United States and which closed with the famous Communist Manifesto of Karl Marx, would show how these contemporaneous movements helped and supplemented each other in laying the foundations of a stable international labour movement. If it were possible to make a vertical cut through the society of the thirties of the 19th century and to obtain for inspection a sectional view of the social organisation of the times, one of the most noticeable features of the period would be the growth of the feeling among different categories of skilled artisans and workers in Western Europe and the United States that they were not merely so many isolated weavers, tailors, or miners, but were so many links in an extensive chain,—members of one vast fraternity—the wage-earning class. From the meeting of these currents of thought resulted the earliest craft labour unions of modern times. In England, France and the United States, countries in the van of industrial and social progress, the workers' movement was taken up with enthusiasm, with the result that, about this period, a Grand National Consolidated Trades Union was set up in England, a National Trades Union was formed in the United States, and secret revolutionary labour societies sprang up in large numbers in France, where adverse political conditions necessitated such subterranean action. The first stage, namely, the organisation of labour in national groups, being thus achieved, the transition to internationalism was easy, the more so as the ground



had been prepared for such advance by much spadework already done by Owenites, Chartist, "revolutionary democrats" and other groups of political dissidents, who, though differing on many points, were all united with labour in thinking that the rigours of the existing competitive industrial system should give way to a productive economy based on associative effort. A peculiarity of the period was the frequent exchange of views on important labour questions by different national associations of workmen through what were called "Addresses"—a development which showed that labour, having consolidated itself nationally, was making tentative and hesitant essays at international action. The first significant manifestation of this wider spirit was the promulgation of an "Address to the Working Classes of Belgium" by the London Workingmen's Association in 1836 under the leadership of William Lovett. The Address, which was a spirited protest against the arrest of a Belgian worker, a minor incident in itself, stands out as a land-mark in the history of labour internationalism, as it was the first mentionable occasion on which the labour group of one country, transcending national boundaries, manifested active concern in the internal affairs of the workers of a different country. Lovett thus set the ball of international labour action rolling; his 'Address' produced a plentiful crop of replies from the national workers' groups of Western European countries, in response to which he published his "Address to the Working Classes of Europe". These 'Addresses', frothy and pompous though some of them were, were still valuable barometers indicating the growing consciousness of workers' solidarity.

Progress during the period was, however, not uniform; labour, time and again, met with serious reverses. Thus, a conference which the different labour groups had planned to hold in London in 1839 had to be abandoned, owing to the general resentment occasioned by the Chartist rebellion, which, it will be remembered, terminated ingloriously at about this time. These set-backs, however, were only temporary. A daring group—consisting of Karl Marx, Friedrich Engels, Michel Bakunin, Flora Tristan, William Lovett, Auguste Blanqui, Daniel Le Grand, and others—was working at various facets of the labour problem and propounding new theories and promulgating new plans. Paris now for a time dominated the labour stage — not the Paris of the gay *salons* and the fashionable boulevards, but the Paris of the busy side-streets and of the obscure cafès, to whose cosmopolitan, revolutionary and, therefore, congenial atmosphere gravitated political refugees and heterodox intellectuals from all the capitals of Europe. Thus, it was in Paris that Flora Tristan published in 1843 her book “L’Union Ouvriere”, in which was adumbrated the first concrete plan for an international labour union; it was in Paris that during the years 1846–47 the first steps were taken for the creation of machinery capable of initiating joint international labour action; and it was again in Paris, that Karl Marx, working in close collaboration with his friend and disciple Friedrich Engels, meditated the lines of the “Communist Manifesto”, his great classic setting forth the philosophy of communism, for presentation to a conference of labour leaders in London in 1847. The Manifesto, though a small pamphlet of forty pages, con-

tained sufficient dynamite in the shape of revolutionary economic doctrines to blow up the existing social fabric sky-high. It held that the capitalist system was unsound in theory and harmful in practice, as it tended to perpetuate the segregation of 'classes' and 'masses' in hostile camps; and it was, further, subject to periodic crises of varying intensity, which could find their logical termination only in a final social cataclysm. The Manifesto further pointed out that the antagonism between capital and labour was fundamental, and that their traditional antipathy was being accentuated by the concentration of industry which, by progressively eliminating the middle classes, was bringing capital and labour into more pronounced juxtaposition. The remedy lay in the forcible abolition of private property and the establishment of a communist form of society—objectives which were to be realised first, by the workers securing political power and secondly, by international labour action. The clear recognition of the class struggle as international in essence, the unequivocal definition of labour's goal as "communist revolution", and the uncompromising insistence on united international labour action—these were the three distinct contributions of the Manifesto to the labour thought of the period. The London Conference of 1847 enthusiastically took up the Marxian gospel and launched out an ambitious plan of action, but the tide of events frustrated this forward move. The wave set in motion by the French Revolution of 1848 swamped the smaller currents of independent labour activities and, for a period at least, kept them in check.

The Communist Manifesto synchronised with the close of the first stage of international labour development. The next stage is the period 1848-1888, its dominant feature being the growth and expansion, and then the decline and dissolution, of the First International. The first decade of the new era marked a stage of arrested development, for, as has been stated before, the ambitious schemes for united international labour action planned by Marx were nipped in the bud by the revolutionary wave which spread over Europe in 1848. The decade which followed 1848 was characterised by political inertia and industrial expansion. The discovery of gold in California, the rapid development of railway and ocean transportation and improvements in the technique of agriculture, served to smoothen the rough edges of industrialism. As a result, labour problems lost much of their insistency during the years 1850-60, and it was not till 1864, when the First International was formed, that the next great advance towards workers' internationalism was made. None the less, the period was a formative one, for, taking advantage of the tranquillity of the times, numerous trade clubs were formed in England and France, which advanced the frontiers of trade unionism and laid its foundations on a stable basis. During these years, though no definite advance in international action was made, there was a brisk interchange of ideas between labour groups in the different European countries which led, as events showed, to substantial results. In 1864, at a meeting in St. Martin's Hall, London, which was attended by labour leaders from France, Belgium, Spain, Italy, Germany and Poland, a proposal for forming an International Workingmen's Association, with a central committee in London and with

branches in all the capitals of Europe, was adopted, and a provisional committee of 21 Englishmen, 10 Germans, 9 Frenchmen, 6 Italians, 2 Poles and 2 Swiss was elected to prepare the programme and constitution of a new organisation called the First International. It was quite in the fitness of things that Karl Marx, the author of the Communist Manifesto, who was leading the life of a recluse student in London since 1849, should have been the life and soul of the Labour International thus set up for the first time. The programme and policy of the new body were formulated by Marx in a document known as the "Inaugural Address", which was a somewhat subdued and toned-down version of his Manifesto of 1847, as it was devised as a compromise platform on which the different labour groups of various countries could take a united stand. In keeping with the root purpose of preserving unity, Marx scrupulously avoided in the Address all pointed reference to socialisation and other contentious topics. Emphasis, on the other hand, was shifted to the supreme need for labour unity in national and international action so that labour could secure political power, and through it, eventually, the full realisation of its programme of reforms.

Limitations of time prevent me from dealing fully with either the constitution or the activities of the First International. The object of the International, membership of which was open to all local or national workers' societies, was to serve as a central medium of communication and co-operation between workers' societies in different countries. The International was also to have a General Council which was to serve as a supreme international labour cabinet, whose duty it was to closely

follow and study labour developments in all countries and formulate the general policy of the movement. The most successful and active period of the International was during the years 1866-1870. During these years, a series of important International Labour Congresses was held under its auspices at Geneva in 1866, at Lausanne in 1867, at Brussels in 1868, and at Basel in 1869. From its inception, Marx guided the International's policy and dominated its activities, and owing to his wise leadership and acknowledged position as the most eminent labour economist in Europe, the International achieved a reputation for power and influence far in excess of what it really possessed. Increasing trade union affiliation from England, France, Germany, Holland, Belgium, Italy and Switzerland considerably augmented its prestige, which reached its peak in 1870. From that year, however, disruptive influences from within, such as the inevitable conflicts between the central and the various national organisations, and the temperamental incompatibilities of its two leaders—Marx, a “revolutionary through the processes of logic”, and Bakunin, a *pucca* conspirator who delighted in destruction for its own sake,—and the pressure of hostile circumstances from without, such as the spectre of revolution conjured up by the Franco-Prussian War and the evil repute which the International acquired through its association with the Paris Commune, brought about a sudden waning of its influence, leading finally to its dissolution in 1872.

Taking stock of the First International after a lapse of six decades, it is not difficult to see how, despite its brief span of existence and relatively meagre record of achievement, it was able to establish for itself a definite

niche in the history of labour developments. It constituted a realisation of the dreams of the early labour pioneers and furnished an earnest of the fuller fruition that later years were to give. In place of the intermittent international labour contacts of early years, it, for the first time, provided facilities for the maintenance of continuous and systematised contacts between the labour leaders of different countries. Again, for the first time, the International gave form and body to the labour demands emanating hitherto at fitful intervals from "irregular" labour bodies, by collecting, codifying and setting them forth under the now only too familiar war-cries of 'the eight-hour day', 'international labour legislation', 'workers' control', 'general strike' etc. Its other claims to recognition are its services as the main-spring of trade union development at a critical stage in the existence of trade unions and its unequivocal enunciation of the doctrines of socialism, from which have evolved communism, syndicalism and other labour philosophies of our times.

The accelerated pace of international labour relationships received an abrupt check when the First International was dissolved in 1872. The years 1875-1889 form an interlude of stagnation sandwiched between two periods of phenomenal activity. We have already seen how the active ministry of the First International set the labour movement throbbing with purposeful activity and what an abundantly rich harvest of results it brought forth. 3 The years 1890-1914 also witnessed a period of lusty growth, when not one, but several, international labour organisations came into being whose activities

*with  
parliamentary*

organised auxiliary bodies. Of the labour bodies of international status which engage our attention at this period the principal are the Second International, the International Labour Secretariat, the International Trade Secretariats, the International Association for Labour Legislation and the International Secretariat of Christian Labour Unions. By this time, it became noticeable that the labour movement was ceasing to be connected with individuals, and was beginning to acquire a mass character. Personalities recede into the back-ground and institutions begin to supplant them. Stalwarts like Marx, Engels, Bakunin, Prudhon, Lassalle and others are replaced in leadership by organisations, striking their roots deep into the sub-soil of the movement and drawing their inspiration and authority from the united will of the workers. This development connoted that the movement was becoming stronger than individual leaders, and that it felt the necessity of relying on its own collective momentum rather than on personal leadership, an uncertain quantity at best, for its continued progress. Labour was thus freed from the vicissitudes incidental to personal leadership and its organisations thereby acquired greater continuity of policy and action. The branching out of the movement into a veritable network of inter-linked organisations and the consequent bewildering profusion of parties and programmes compel us to satisfy ourselves with a cursory glance over developments from this stage onwards. All the same, the Second International which, in respect of membership, number of national affiliations, scope of programme and quality of leadership, stands head and shoulders over other contemporaneous labour institutions, deserves some further attention.



After the collapse of the First International, the labour movement broke up into a welter of confusion. Socialists, anti-socialists, possibilists, Blanquists, syndicalists, Bakunists, anarchists, — parties with all kinds of labels — carried on an interminable internecine warfare without materially advancing labour interests. The first party to initiate constructive action were the Socialists, under whose auspices a congress of workers was held at Paris in 1899, as a result of which the Second International rose phoenix-like over the ashes of its predecessor. The formation of this International once again gave coherence to the labour movement and supplied it with a nucleus round which the more sober and stable elements could cluster and fight its battles. Till the outbreak of the War in 1914, the Second International managed to retain the leadership and control of the organised labour movement. It held a succession of yearly congresses, and between the Paris Congress of 1899 and the Amsterdam Congress of 1904, it built up a fairly stable organisation. Fissiparous tendencies were checked in advance, as membership was open only to those who subscribed to the fundamental principles of socialism, i. e. socialisation of the means of production, international organisation of workers and the conquest of political power by the proletariat organised into a political party on a class-basis. Its programme, in brief, was to democratise the instruments of government, to establish manhood suffrage and the rights of free assemblage, free speech and free combination, and to win free public education. In addition, the International helped the workers by striving to obtain improved working and living conditions and putting forth demands for protective

international labour legislation. The work of the International, however, was impeded and its usefulness curtailed by the persistent opposition it met with from 'Right' and 'Left' parties within its own fold, the former demanding that development should be on trade union lines only and the latter insisting on the eschewal of parliamentary methods and the adoption of the policy of 'direct action'. After the Copenhagen Congress of 1910, these undercurrents of internal conflict came to the surface and reduced the initiative and driving power of the International considerably. Further, the premonition that Europe was on the brink of war, born of a series of international crises beginning with the Agadir incident of 1911, helped to awaken national loyalties in the hearts of the workers and weakened the axiomatic opposition to war which was of the very essence of the socialist creed. Class-solidarity, the mortar which cemented together the warring elements in the International, was thus being forced to give way to the pull of national animosities. The Great War came as the final test; confronted with this supreme crisis, socialism was found wanting. The national bodies constituting the International, with certain minor exceptions, availing themselves of the ready slogans coined by the jingo press—"the defence of democracy," "the rights of small nations," "the needs of the fatherland"—abjured their anti-war creed, and fought each other in frenzied fury for a space of five years. The Second International had collapsed.

~~-18~~ The period which we now enter, the years of the War, was one of great travail and sorrow for labour. We have seen how the carefully built up edifice of the Second International,—the one outstanding labour body

which stood for coherence, sobriety, and orderly international progress, among a restless, wrangling, doctrinaire coterie of labour organisations—collapsed under the conflict of national and class loyalties evoked by the War. The course of labour developments in the period which followed the declaration of hostilities, as befits its military setting, was marked by alarms and excursions of various kinds. Opposing labour groups, none too sure of their ground, blindly groped about to find their places in the new national economy necessitated by the War. The majority of the socialists of the Right and Centre groups, after making feeble demonstrations against the War to quieten the prickings of their socialist consciences, readily enlisted as soldiers, and forgot the slogans of socialism in the process of familiarising themselves with the drill sergeant's vocabulary of expletives. Others, particularly minority groups of left wingers, impeccable in their adherence to pacifism, but strangely enough insistent on precipitating the millenium through the destructive processes of world revolution, kept up an attitude of sanctimonious aloofness from the War, all the while busily shaping bludgeons and sharpening blades for the gory programme to which all honest communists had sworn adherence by bell, book and candle, or whatever else take their place in the mysteries of communistic rites. Despite such back-slidings and defections, the collapse of the International did not mean the wiping out altogether of the international labour movement. The pre-war international labour institutions had struck their roots so deep that they could not be permanently dislodged and destroyed. The memories of the First International, the sturdy growth of healthy labour traditions during the

two decades immediately preceding the War, the different International Trade Secretariats, and the International Federation of Trade Unions,—these were so many tentacles thrown out to labour to help it to hold on to the position of vantage it had built for itself in pre-war days. Helped by their combined pull, labour was able, before the War was over, to reconstruct the pre-war Internationals.

Of the newly created labour institutions, the revived Second International and the Third or Communist International stand out in prominent relief as the two juxtaposed bodies claiming to regulate post-war labour activity. How was it possible for two such institutions to strike root during the welter and confusion, the hatreds and animosities, and the economic and military obsessions of the War? The explanation lies in the fact that they were in a sense a resultant of the conditions generated by the War itself. Though by 1915 the war temper of the socialist organisations of the belligerent countries had hardened, there were still, in all the combatant countries, "centre" socialists who were opposed to the War. Karl Kautsky and Bernstein in Germany, Jean Longuet in France and Ramsay MacDonald in England were leaders of microscopically small groups which, true to the pacifist and anti-war creed of socialist internationalism, maintained that labour, if not powerful enough to stop the War, should at least take steps to hasten the advent of peace. On the other hand, the extreme left wing led by Lenin and Trotsky in Russia, Karl Liebknecht and Rosa Luxembourg in Germany, Friedrich Adler in Austria, Monatte and Merrheim in France, while demanding more vigorous anti-war action,

thought that the sense of weariness and the weakening of discipline caused by the war furnished too good an opportunity to be lost for the establishment of working class domination by revolutionary methods. The two parties, as was natural, tried to canvass as much support as possible by holding a series of conferences to propagate their views. The revolutionary and anti-war socialists were first in the field and held the Zimmerwald Conference in 1915 at which they condemned governments, secret diplomacy, the capitalist system and the churches as originators of the War, rebuked pro-war socialists for their heretic attitude, and decided that workers should end the War by revolutionary methods. The Stockholm Conference of 1917 arranged by the other party, stigmatised as "defeatists" by the Allied press, could not be held owing to the ban placed on it by the Allied governments. On November 7, 1917 the Bolsheviks under the leadership of Lenin, Trotsky and Zinoviev staged the Second Russian Revolution and captured the Government. Installed in power, the Leninists rushed matters; in January 1918 the Constituent Assembly was dissolved, in March the Brest-Litovsk Treaty was signed, in June a sweeping decree was issued for the nationalisation of the economic life of Russia; and in March 1919 the first International Communist Conference was held in Moscow to form the Third International. While affairs were progressing so propitiously for the left wing socialists, the socialists proper, who had met with an unexpected check in respect of the proposed Stockholm Conference, met in conference, first in London in September 1918 and then in Berne in February 1919, under the leadership of Arthur Henderson of England, Albert Thomas

of France, and Samuel Gompers of America. They took effective steps to consolidate the position of the international socialist labour parties by reviving the Second International and giving it a distinctly socialist flavour and colouring. Among their immediate demands were the incorporation of a Labour Charter in the peace treaty and the creation of permanent machinery in the shape of a League of Nations and an International Labour Office to conserve for all time the higher and more abiding interests of labour. Thus it was that the end of the war-period saw the emergence of two full-fledged international labour institutions standing in diametric opposition to each other. On the one hand, the Russian Bolshevik movement, after floundering for a time in the swirl and eddy of revolutionary currents, was carried, thanks partly to Lenin's organising capacity and partly to a spate of good fortune, to the very pinnacle of achievement, enabling it to translate into action, in part at least, the cherished dreams of Karl Marx. On the other hand, stung to action by the fear that the rank and file of organised and unorganised labour might be stampeded into revolutionary methods, and jealously resentful of the sudden triumph of communism in Russia, socialists of all countries united together and revived the Second International, so that, standing shoulder to shoulder under its banner, they may give determined battle to communism and revolutionary methods.

We have now followed the zig-zag course of international labour developments almost right up to the present time. I do not propose to deal with the labour developments of the period 1919-1930 in any detail, as the extreme diversity of form assumed by labour action and

the curiously intertwined strands of labour policy of this period, so close to us historically, do not permit easy analysis or lend themselves to brief treatment. Nor is such a study necessary for our present purpose which, I think, would be best served by ignoring incidental developments and emphasizing essential features, particularly those which have a bearing on the future of Indian labour. The crux of the labour situation as it emerged out of the War was the fundamental opposition between the Socialists and the Communists, arranged under the banners of the Second and the Third Internationals respectively. There were also other groups in the field, such as the anarcho-syndicalists existing in scattered groups in France and Germany, the Italian Fascists, the Christian Trade Unionists and the American Federation of Labour; but as these bodies do not enter into the field of international competition, their activities need not concern us much. Let us turn rather to "Amsterdam" and "Moscow," which, like two champion pugilists, stripped to the waist and with the gloves off, are facing each other to fight for the leadership and control of the international labour movement.

To appreciate the keenness of the fight and rightly to gauge the chances of success, we have to see how the protagonists are equipped for the fray and what forces they can muster to their aid. 'Amsterdam' is the name loosely given to what are in reality two separate institutions, which are closely united by the bonds of a common objective and similarity of social and political outlook. These two bodies are the International Federation of Trade Unions, which has its headquarters at Amsterdam\*, and

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\* The I. F. T. U. removed its headquarters to Berlin in 1931.

the Second International or the Labour and Socialist International, as it was designated after the Conference of 1923. The I. F. T. U. is an international association of trade unions of the socialistic type and is today the largest and most coherent International. It embraces a net work of national centres and has as its auxiliaries 27 International Trade Secretariats; in January 1928 it had a membership of over 13 millions. The Labour and Socialist International is a body which works in the closest cooperation with the I. F. T. U., the membership of the two bodies being to a very great extent identical. The difference between the Socialist International and the I. F. T. U. rests on the basis of their composition. The International is a political body and draws its members from all classes, while the I. F. T. U. is formed strictly on the lines of trade union membership. Their outlook, which is similar, may be called 'reformist internationalism'. 'Evolution in place of revolution' is the key-note of 'Amsterdam,' which regards socialist transformation of society as a gradual process. Further, it stresses economic co-operation, democracy and peace, and advocates 'workers' control' through shop committees, factory councils and industrial courts. In world politics, it co-operates with the League of Nations, is definitely pacifist and is anxious to avert war by all means, including general strikes. In matters of labour, it is a supporter of the I. L. O. and stands for the Berne Charter, stressing especially the curtailment of the working day, the need for higher wages and improvements in political and labour conditions throughout the world, including those of subject populations.

The Third or Communist International stands for



methods quite different from those of the Socialist International. First and foremost it stands for revolution and the overthrow of the existing social order so that working-class supremacy will be the rule in all countries. The etherealised society of communist dreams is to be free from all exploitation and its guiding principle is to be "From each according to his ability and to each according to his needs." Political and social equality, social ownership and a well-planned economy, large-scale production, industrialised agriculture, a national credit system and equitable distribution—these are some of the ideals of both Socialism and Communism. As affairs have actually shaped out in Russia, however, Communism has meant the negation of democracy; the dictatorship of the proletariat is no longer a reality, and power is concentrated in the hands of an oligarchy—a close corporation of Soviet dignitaries. In addition to the Third International, the communists have set up a Red International of Labour Unions in opposition to the I. F. T. U. In January 1928 the R. I. L. U. had a membership of twelve millions and the Third International a membership of nearly two millions.

In the struggle between Amsterdam and Moscow for supremacy, both are looking to the East for accretions of strength. Amsterdam, which has at present little following outside Europe, is naturally anxious to extend its range of influence by securing the affiliation of Indian, Chinese and Japanese labour organisations. Moscow also is making a strong bid for the capture and assimilation of the young labour movements of the East. Its efforts in this direction are of a varied character. That propaganda,—subtle, insidious and

pervasive,—is being assiduously carried on by communist agents, has been made clear by several recent developments in the East, particularly in China and India. Other weapons in the communist armoury are a subtle approach to eastern groups, pleading kinship based on Russia being partly an Asiatic country, and exploiting to their fullest possibilities the strong national and anti-imperialist movements which have recently taken their birth in India and China. Moscow's efforts to win the adherence of eastern labour movements, however, are meeting with scant success. We have seen how China for a time and for its own purposes welcomed communistic penetration and how, later, the Chinese nationalist party, after extracting whatever benefits could be had from a temporary alliance with Soviet Russia, threw her communist advisers overboard and repudiated Communism and its ways. In India, the Communists have not succeeded in making even as much headway as in China. Apart from having some temporary success with certain irreconcilable and intractable elements in Indian labour, communist propaganda has not been able to make any serious impression on Indian labour groups. What little influence the Communists had was obtained during times of acute labour crisis, and though with the easing of the tension the communist influence has perceptibly declined, as is evidenced by the almost complete abandonment of the Girni Kamgar Sabha by its former supporters, it is not at all unlikely that future periods of economic distress would witness a revival of communist ideas and doctrines. For it must be remembered that there is a growing volume of intellectual sympathy with the ideals of communism, and that the belief is deepening among the poverty-stricken

workers and peasants of the country that it is only by the communist method of a sudden upheaval that they could ever obtain freedom from their political and economic thralldom.

On the other hand, the relations of Amsterdam with Indian labour have been very cordial. There has been fairly close and continuous association between Indian labour on the one side and the I. F. T. U. and the Socialist International on the other. Of course, the occasions for contact with the former body have been more numerous, since the I. F. T. U. is the central organisation of trade unions as such, while the Socialist International is more concerned with the political and imperial aspects of labour problems. There have been several occasions when the interest of these bodies in the Indian labour movement has manifested itself overtly; Amsterdam, like Moscow, has helped distressed Indian strikers with generous financial contributions; and it has always declared itself ready to advance the cause of genuine trade unionism in the country. At the 1928 congress of the Socialist International, which was attended by two or three representatives of Indian labour, the main item on the agenda was the colonial labour problem which also included an enquiry into the political conditions prevailing in the Colonies. Not only on these, but also on other occasions have outside labour bodies expressed their sympathy with the Indian cause, and offered it encouragement. It is true that neither the Indian Trade Union Congress nor the newly formed All India Trade Union Federation has affiliated itself to any important international organisation. But considerable sectional units representing more than three-quarters of the membership of registered trade

unions in the country (such, for example, as the transport and the textile workers of India) have now established solid connections between their national unions out here and powerful international bodies like the International Transport Workers' Federation, and the International Textile Workers' Federation. The missions of Shaw and Furtwangler of the International Textile Workers' Federation in 1926, and of Purcell and Hallsworth of the British Trade Union Congress in 1928 are further instances which evidence the outsiders' interest in Indian conditions, and I understand that the I. F. T. U. and the Transport Workers' Federation are both contemplating sending out similar delegations to study the Indian labour movement. But in spite of these increasing bonds of relationship, the more thoughtful among the friends of Amsterdam in India have recently been beginning to be rather critical of the attitude adopted by the I. F. T. U. and the Socialist International, and more particularly by their most important constituent body *viz.*, the British Trade Union Congress and the British Labour Party, in regard to such burning problems as Imperialism and the development of self-governing institutions in the Colonies. If these international organisations could not bring their combined influence to bear on the Labour Government of Great Britain and compel it to solve problems like these by the application of the socialist root-principles of liberty and equality, it was evident that the teachings of these bodies were not meant by them to be applied to non-European and subject races ; and to that extent, therefore, Amsterdam is regarded as a will-o'-the-wisp in India.

It is under the shadow of these two rival organisations that the I. L. O. has come into being, and it is, therefore, against the background of these two constantly active forces that we must attempt our review of its origins and achievements.



## II

### LABOUR LEGISLATION— NATIONAL AND INTERNATIONAL.

The prolongation of much of the misery that was engendered in Western Europe during the opening years of the Industrial Revolution has been attributed to the economic theories prevailing at that time. Towards the middle of the 18th century, Western Europe was still organised on a system, the basis of which was virtually a surviving feudalism. Many symptoms, prominent among which were the growth of commercial towns and the emergence of a new middle class deriving its importance from trade, had already appeared to portend the decay of the old social synthesis; but in the main, it was still a world of status with its attendant social inequalities, a world still mediæval in political and economic relations. Democracy had indeed long to wait before it could be accepted even in principle by many of the European countries, but that democracy was already knocking at the door was evident from the manner in which thinking minds among Rousseau's contemporaries received his political and social doctrines. The conception of political liberty was steadily gaining ground, and the French Revolution of 1789 had added a new meaning to it. The time was therefore favourable for the development of analogous ideas in the neighbouring field of economics, and the economic theories that were gaining acceptance at this period were elaborated with a view to obtaining the maximum degree of freedom in economic relationships, and to restraining within as close bounds as possible the authority of the State to intervene in these matters. With political liberalism was thus associated the doctrine of econom-

ic liberalism. To our generation the phrase 'economic liberalism' seems something of a misnomer, since it was this economic liberalism which was responsible for the untold sufferings of the working classes during the early part of the last century. But this phrase had a technical meaning during the first half of the 19th century, and was associated with a very definite body of economic doctrine built on the cardinal principles of individualism and laissez-faire. According to the exponents of this school of economic thought, the economic life of nations was governed by certain natural laws which, like the laws of physics, may not be interfered with with impunity. The principal teaching of this school was that all the individual members of any society have the same natural rights, and that, even if all do not possess equal capacity, each could at least best understand his own interest, and is led by nature to follow it. If each individual is the best judge of his own interest, it follows that the best that could be done to help him is to leave him to himself. Liberty, thus, implies individualism, and it is because of this that the school of economic liberalism has also been called the individualist school. As applied to economic life, this liberalism meant freedom of work, free competition, and free trade, both internal and external ; it also carried with it as a natural corollary the non-intervention of the State in economic matters.

As Sidney Webb has pointed out, this acute outbreak of individualism, unchecked by the old restraints, and invested with almost a religious sanction by a certain soul-less school of writers, was perhaps inevitable after the economic blundering of governments in the 18th century. Prior to scientific investigation of economic

laws, man's interference in social arrangements had invariably led to rather unsatisfactory and unlooked-for results. A specially extravagant or a specially thrifty king debased the currency and was then surprised to find that, in spite of stringent prohibitions, prices went up and all good money fled the country. Wise statesmen, anxious to keep up wages, encouraged the woollen manufacturers of England by ruining those of Ireland, and were then astonished to find English wages cut by Irish pauper immigration. Benevolent parliaments attempted to raise the workers' income by Poor Law allowances, and then found that they had lowered it. It was only natural that, when the early economists realised how radically wrong had been these well-meant attempts to regulate economic relations by legislative or other action, they leaned in their deductions heavily towards complete individual liberty. This was the conclusion to which, even before the French Revolution, the Physiocrats had arrived ; but the wide popularity it obtained in England was due to the clear enunciation it received at the hands of Adam Smith, the father of the Classical School of political economy. Developing the principle of freedom of contract on a somewhat more elaborate basis, it means that the interests of the employer and the worker are in harmony and not in conflict, and that this harmony was more likely to be realised and to bear full fruit if the State allowed natural economic laws their free play. Some of the most telling passages in "The Wealth of Nations" are those condemning State interference in economic matters, and showing that it has invariably been exercised arbitrarily and has led to waste and inefficiency. The teaching of Adam Smith and his



followers had a wide currency in its days, and exercised a profound influence on the economic thought of the 18th and 19th centuries. In some quarters, Adam Smith was even hailed as the precursor of industrialism, even though, as a matter of fact, the Industrial Revolution had but hardly commenced in 1776 when "The Wealth of Nations" appeared. As Gide and Rist point out, Adam Smith's work, far from being a prophetic manifesto in favour of the new industrial society which was then in its birth-throes, contains pointed criticisms against "the merchants and manufacturers", whose interests were never entirely identical with those of the public. As between the workers and the capitalists, it is easy to perceive that his sympathies lay with the former. In several passages he illustrates the idea that workers of all kinds constitute the majority in all political societies, and that that which ameliorates the conditions of life of the majority can never be considered a disadvantage to the entire body politic. On another occasion he makes a remark which one is surprised at not seeing more frequently quoted by the promoters of working class legislation : "On every occasion when the legislator tries to settle the differences between masters and their men, his advisers are always the masters ; consequently, when the settlement is in favour of the workers it is always just and equitable ; but it is sometimes otherwise when it is in favour of the masters ". It has been necessary to refer to Adam Smith's views about the moral rights of the working classes and their helpless position in order to show that he was fully alive to the need for their legislative protection. His followers, however, seem to have overlooked these considerations when they applied the

doctrines of economic liberalism to the relations between masters and men; and their thesis won wide approval at a time when England was in revolt against guild ordinances and other customary regulations which operated to impede and restrict the freedom of competition.

The doctrines of the Manchester School were elaborated and popularised by the so-called Philosophical Radicals, and for a time it almost seemed as if complete economic liberty and unrestricted competition were to be permanently apotheosised in the new economic system. But the inexorable logic of events proved more potent than these theories, and the new discoveries and inventions which made the age of machine-industry possible were also responsible for a new social dispensation which, throughout more than a third part of England, led to the displacement of the manor by the factory or the mine. The old elements of society were replaced by new ones which, untrammelled by traditions of any kind, ruthlessly exploited the new resources available to them, and in their race of mad rapacity no sentimental considerations hindered the full utilisation of the agents of production to the greatest pecuniary benefit of the proprietors: and no count was taken of the increasing number of helpless victims who were used up in the process. The economic principles fashionable just then suited millowners and merchant princes and others who, on account of their initial strength in money power or in resources, were able with impunity to indulge in the free economic battle. But the price that society had to pay for this freedom of battle was a heavy one, and the horrors caused thereby may best be studied in the Blue

Books' which led up to successive Factory Acts in Great Britain and elsewhere. A result of the Industrial Revolution in England in the 18th century and on the European continent and in the U. S. A. at various dates in the 19th century was the establishment of all forms of industry on a capitalist basis. That is to say, in place of the old-time master craftsman working on his own materials with his own plant in his family group of journeymen and apprentices, we have the capitalist entrepreneur working with his army of hired men more or less completely divorced from the ownership of the means of production. The accentuation of this tendency has led to the creation of the proletariat class, the number of workers who owned the product of their labour steadily diminishing, while the number of those who are mere wage-earners has increased in proportion. So marked has been this social development that, by the beginning of the 20th century, nearly the whole manual working class has been divorced from the soil and the ownership of capital, and among advanced industrial nations, it is computed that this wage-earning class constitutes from two-thirds to four-fifths of the entire population. Far from the doctrine of economic liberty being the generator of a democracy of independent producers, it has actually led to the establishment of a democracy of hired men, whose economic interests are primarily not so much in the amount of the product, of which they enjoy only an infinitesimal share, as in the conditions of employment that the new economic regime offers to them.

These conditions of employment were appalling in

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\* Report of the House of Commons Committee of 1815-16; of the House of Lords Committee of 1819, and of the Royal Commission of 1840.

the extreme, and since England was the home of the factory system, it might be worth while to give an account of the conditions in that country, which were typical of what was going on in other countries to which the Industrial Revolution had spread. Those who want first hand information on the subject must be referred to the Blue Books already cited; others will satisfy themselves with the objective accounts given in a series of excellent treatises, such as Engels: Condition of the working class in England in 1844; Toynbee: Condition of the English Wage-earners in 1760; Taylor: The Modern Factory System; Webb: The Case for the Factory Acts; Von Plener: English Factory Legislation. The broad facts may here be summarised as follows:

“Children, it was discovered, were transferred in large numbers to the north, where they were housed in pent-up buildings adjoining the factories, and kept to long hours of labour. The work was carried on day and night without intermission; so that the beds were said never to become cold, inasmuch as one batch of children rested while another batch went to the looms, only half the requisite number of beds being provided for all. Epidemic fevers were rife in consequence. Medical inspectors reported the rapid spread of malformation of the bones, curvature of the spine, heart diseases, rupture, stunted growth, asthma, and premature old age among children and young persons; the said children and young persons being worked by manufacturers without any kind of restraint. Manufacturing profits in Lancashire were being at the same time reckoned at hundreds and even thousands per cent. The most terrible condition of things existed in the mines, where children of both sexes worked

together, half naked, often for sixteen hours a day. In the foetid passages, children of seven, six, and even four years of age, were found at work. Women were employed underground, many of them even while pregnant, at the most exhausting labour. After a child was born, its mother was at work again in less than a week, in an atmosphere charged with sulphuric acid. In some places women stood all day knee-deep in water and subject to an intense heat. One woman, when examined, avowed that she was wet through all day long, and had drawn coal carts till her skin came off. Women and young children of six years old drew coal along the passages of the mines, crawling on all fours with a girdle passing round their waists, harnessed by a chain between their legs to the cart. A sub-commissioner in Scotland reported that he "found a little girl, six years of age, carrying half a cwt., and making regularly fourteen long journeys a day. The height ascended and the distance along the road exceeded in each journey the height of St. Paul's Cathedral." "I have repeatedly worked" said one girl seventeen years of age, "for twenty-four hours." The ferocity of the men was worse than that of wild beasts; and children were often maimed and sometimes killed with impunity. Drunkenness was naturally general. Short lives and brutal ones were the rule. The men, it was said, "die off like rotten sheep; and each generation is commonly extinct soon after fifty." Such was a large part of industrial England under the unrestrained rule of the capitalist. There can be no doubt that far greater misery prevailed than in the Southern States during the era of slavery. The slave was property—often valuable property; and it did not pay his owner to ill-treat him to

such a degree as to render him useless as a wealth-producer. But if the 'free' worker were injured or killed, thousands could be had to fill his place for nothing."

The evils of the new system had become so rampant towards the beginning of the 19th century that both economists and statesmen were compelled to revise their ideas regarding the principle of *Laissez-faire* and the sanctity of the doctrine of Freedom of Contract. So distinguished an economist as Nassau Senior, who was called in by Lord Melbourne in 1830 to advise as to what action he should take to meet the evergrowing labour agitation, was unable to perceive the real cause of the social *malaise* for which he was to suggest a remedy, and his only recommendation appears to have been the imposition of further repression in order to stifle the growing spirit of trade unionism. But there were other forces, the emergence of which has had the salutary effect of imposing checks on this process of continued impoverishment of the poor. Large scale production, it is true, brought about a fall in the price of manufactured goods. Under the new dispensation the coal-miner was able to buy his clothes cheaper and the cotton spinner was able to obtain cheaper coal for his household, and the advocates of free competition pointed to this as the infallible proof of the justice of their position. But, as Sidney Webb asks, what mattered it to the coal miner that his clothes were a few shillings cheaper if it also meant that he had to work excessive hours under insanitary conditions in mines where precautions against accidents were conspicuous by their absence, and for wages which were inevitably reduced to the barest competitive rate which was often-times even below the subsistence level? Similarly, what was the

advantage of cheaper coal to the cotton spinner when the price he had to pay for it was excessive toil for insufferably long hours both for himself and for the members of his family in the foetid and unhealthy atmosphere of the factory ? When the results of the unrestrained competition in the employment of labour impressed themselves more and more on sensitive and observant minds, as that of Robert Owen (1771-1858), they reacted to it in characteristic fashion by holding forth a loftier social ideal than that propounded by the economists. The work was taken up enthusiastically by a young band of social reformers, the more prominent of whom were Maurice, Kingsley, Ruskin and John Stuart Mill. They realised that freedom of contract and of competition, as then understood by the economist, meant freedom only to the stronger party to a contract, and that to give the employer freedom to impose his terms on his individual workmen inevitably meant the reduction of wages often to a point even below what was physiologically necessary for subsistence. The bargaining strength of the employer and the economic weakness of the worker tended to make of a contract an unilateral arrangement by which the stronger party imposed its will on the weaker ; and it was thus that we had the exaction of hours of daily labour, not only from men but also from women and children, far in excess of what was compatible with healthy existence, at rates of remuneration far below those needed for mere subsistence, and under conditions which seriously affected both the health and the general welfare of the workers. The spirit of revolt against the new system of wage slavery was not slow in asserting itself, and as early as 1802 we find in Great Britain "the first of a long

series of laws, out of which has grown an industrial code that, year after year, follows the life of the operative in his relation with the employer into very minute detail. "The first stages of this movement" as Professor Hobhouse tells us, "were contemplated with doubt and distrust by many men of Liberal sympathies. The intention was doubtless to protect the weaker party, but the method was that of State interference with freedom of contract. Now, the freedom of the sane adult individual carried with it the right of concluding such agreements as seemed best to suit his own interest, and involved both the right and the duty of determining the lines of his life for himself. Free contract and personal responsibility lay close to the heart of the whole Liberal movement. Hence the doubts felt by so many Liberals as to the regulation of industry by law."

The systematic employment of young children and women under conditions which outraged the public conscience brought matters early to a head. In the case of children, even such convinced individualists like Cobden agreed that the principle of free contract could not apply, but child labour legislation was tolerated only as an exception to the general principle on the ground that the child was incapable of looking after its own interest or of entering into a valid contract. What was overlooked was that the argument justifying the exception in favour of children's labour was capable of a logical extension to cover other categories of labour as well. If the child was helpless, how was the grown-up worker, man or woman, in a better position? Hobhouse illustrates his point by the case of an owner of a mill employing 500 hands, bargaining for the labour of an operative who



possesses no alternative means of subsistence. If the bargain fails, the employer loses one man, but has still 499 men to keep his mill going, and at the worst it is only for a day or two, until another operative appears, that he is likely to be inconvenienced. During the same period, however, the operative might have nothing to eat and might see his children going hungry. Where was the effective liberty in such an arrangement? The true explanation of this anomaly — and indeed the real philosophical basis for all labour legislation — is given by Hobhouse himself: “In the matter of contract, true freedom postulates substantial equality between the parties. In proportion as one party is in a position of vantage, he is able to dictate his terms. In proportion as the other party is in a weak position, he must accept unfavourable terms. Hence the truth of Walker’s dictum that economic injuries tend to perpetuate themselves. The more a class is brought low, the greater its difficulty in rising again without assistance. For purposes of legislation, the State has been exceedingly slow to accept this view. It began, as we saw, with the child, where the case was overwhelming. It went on to include the ‘young person’ and the woman—not without criticism from those who held by woman’s rights, and saw in this extension of tutelage an enlargement of male domination. Be that as it may, public opinion was brought to this point by the belief that it was intervening in an exceptional manner to protect a definite class not strong enough to bargain for itself. It drew the line at the adult male; and it is only within our own time, and as the result of a controversy waged for many years within the trade union world itself, that legislation has avowedly undertaken

the task of controlling the conditions of industry, the hours, and at length, through the institution of Wage Boards in "sweated" industries, the actual remuneration, of working people without the limitation of age or sex. To this it has been driven by the manifest teaching of experience that liberty without equality is a name of noble sound and squalid result ..... As experience ripened the implications of the new legislation became clearer, and men came to see that by industrial control they were not destroying liberty but confirming it... ..... Just as Government first secured the elements of freedom for all when it prevented the physically stronger man from slaying, beating, despoiling his neighbours, so it secures a larger measure of freedom for all by every restriction which it imposes with a view to preventing one man from making use of any of his advantages to the disadvantage of others." It is thus that social freedom is enlarged by restraint.

There is also another way of approaching the principle governing labour legislation. Every one is agreed that restrictions should be imposed on the employment of child labour. But why? Because it is to the interest of the community that the child should be given all opportunities for growing up into a healthy adult. If, however, the State is prepared to go out of its way to protect the child, how can it allow his strength to be sapped and wasted by excessive and unhealthy labour when he has grown to the age of discretion, and on what principle can he be denied the necessary leisure for the further development of his mind and body for the building up of which the State had taken such special care during his tender years? Again, there appears to be

some inconsistency in protecting the child and abandoning the actual and the potential mother to their fate, since protection of the mother is the first step in the safeguarding of the child's physical and mental development. Thus, to those who are prepared to tolerate child-labour legislation, but are not prepared to admit the necessity for all-round labour protection, it may be asked what is the *ratione legis* involved in exempting the child from the principle of the so-called free contract. Apart from the fact that workers of all kinds are by no means free agents *vis-a-vis* their employers since they cannot bargain with their employers on a footing of equality, there is this cardinal principle involved in all measures for labour protection that there is a certain minimum which society demands for adults as well as for children. "Men have gradually become aware, dimly and imperfectly, that there is a more fundamental basis for factory legislation than the mere protection of the weak against the personal power which the command of capital gives to the employer. What is now seen to be essential is that, whether the workman be weak or strong in his bargaining power, wise or foolish in his demands, the community must see to it that those conditions which are requisite for social wellbeing shall not be infringed. Hence has come the conception of 'the national minimum', which means conditions of existence which, because they are deemed indispensable to social health, the State insists on importing into every bargain for the hire of labour, if not also into every act of a man's life."

Not until the latter part of the 19th century was it realised that the inevitable consequences of unrestricted labour contracts were to fling on the rubbish heap of

charity successive supplies of human labour which was prematurely used up, and that under any well ordered system of national economy this should be prevented, and the labour strength of the community should be so conserved and husbanded that no more should be extracted from it than was consistent with the welfare of the working classes and of the community as a whole. It would, however, be too much to assert that this principle was present in the minds of those who gave the industrial world its first laws for labour protection. The English Act of 1801 and those which have followed it in unceasing sequence were only efforts to tackle special problems as they arose. It is only gradually that labour protection has spread from trade to trade and from industry to industry, and it is only now, with all the formidable array of labour legislation which the Statute books of various countries hold out to our admiring gaze, that we are able to enunciate the general principle which unites all these heterogeneous classes of legislation into one composite whole. The dominant social purpose of labour legislation now stands clearly revealed; it is the means by which we seek to establish a new social order based on the principle of social justice.

I have already pointed out how the Industrial Revolution, though it began in England, soon overspread her borders and how the new system of production was taken up with alacrity both in Europe and America, and later, even in distant countries like Japan, India and China. Industrialisation had in effect become world-wide, and it was only natural that the countries which had copied the new methods of England should also in their turn have been faced with their inevitable sequelæ of slums

and conditions approaching slave labour. Under the pressure of these growing industrial evils, these countries also found themselves compelled to adopt some form or other, more or less comprehensive, of legislative control over working conditions, though their eagerness to follow the example of England in this respect was not quite so keen as was their enthusiasm in adopting the system of machine production. However that may be, labour laws have spread gradually from England on to the European continent and to America, thence to the more important overseas colonies and possessions (including India) of the European Powers, and lastly to Asiatic countries like Japan and China. This, however, was only the first step in the legislative control over industrial conditions; the practice of each state legislating for itself independently of others on a common subject was bound, in the course of events, to lead to an attempt towards international regulation. When discussing the necessity for the regulation of industrial conditions by the State, I did not distinguish between national and international legislation, as they are both substantially justified by the same arguments. To illustrate this point, it is enough to point out why it has been held necessary that the State, that is to say, a common superior authority, should have been called upon to regulate labour conditions when the private initiative of a majority of employers in any particular State would have sufficed to set up a fair labour standard. The reason is that the progressive policy of an individual employer does not always lead to his prosperity; faced as he is with keen competition from his confreres in the same industry, the progressive employer who is

anxious to introduce costly reforms may find that business is slipping away from his hands unless all his competitors also are willing to bear the extra cost involved by sponsoring the same reforms. And since it is difficult to ensure common action by bringing about a common agreement between people whose economic motives impel them to stand out and make additional profits for themselves, the State had to intervene in order to make a common measure of reform binding on all, so that the humane employer was not penalised for his idealism. In the same way, if any one country establishes for her workers more favourable conditions than her rivals and thus raises the labour cost, her position *vis-a-vis* that of other competing nations which refuse to adopt like measures will be the same as that of the reformist industrialist *vis-a-vis* his less humane competitors. This question of the comparative labour costs involved in changes in labour standards has assumed even greater importance on account of the transformation that has taken place in the world during the past generation or two. The process of the internationalisation of industry to which I referred some time ago has been rapidly assisted by the evolution of new forms of transport and communications. The railway, the steamship, the motorcar and the aeroplane have proved wonderful abridgers of distances : a long and uncomfortable day's journey was needed in 1824 to take the traveller from London to Bath, a distance of 108 miles ; but today it takes less time to go from London to Berlin, a distance of 650 miles, and the increased speed has been accompanied by an increase in the comforts of travel. Columbus's " Santa Maria " took 93 days to cross the Atlan-

tic ; the big Atlantic liners of the present day, representing the latest in ocean-travel luxury, have reduced the time to four days and a half; and quite recently, it took only 33 hours for the "Spirit of St. Louis", Lindbergh's historic aeroplane, to flash across the same distance. In like manner, the development of postal communications, of the telegraph and of the wire-less has effected another revolution in the minimising of distances, with the result that today the lives of men and women in different countries touch one another in a thousand ways for every contact they had a hundred years ago. The speedy communication systems which now encircle the globe have led to the unceasing multiplication of the volume of international trade ; people now "speed and post o'er land and ocean without rest " in search of raw materials for their industries and wider markets for their produce ; and the whole world has become a single economic unit. In place of the economic independence of isolated regions so characteristic of the period preceding the Industrial Revolution, a million ramifications in trade and industry have now bound all the peoples of the earth together and made them inter-dependent. An examination of the stock in any retail shop of your town, and an enquiry into the origin of each of the articles there displayed, will show you to what a surprising extent we are dependent on other countries even for the ordinary conveniences and comforts of our life. On account of the growing nexus of these international economic relationships, no country can today remain indifferent to, or unaffected by, what her neighbour is doing, and this applies specially to economic and social developments. In the increasing competition of our times, it may be difficult or

even dangerous to proceed further with national labour legislation unless all countries are prepared to take simultaneous forward steps. It is in this sense that international labour legislation has become an indispensable complement of national labour legislation.

There are, however, some people who do not agree that this is so, and who argue that, as in the past, so in the future, progress in national social legislation is still possible even if there be no international legislation to make the new steps in social reform a common feature in all industrial countries. To a certain extent, indeed, this remains true. If England, for example, competing with India and Japan in cotton fabrics, can afford to progressively better the conditions of her working classes even though her Asiatic competitors have not done very much to speak of in this direction, why should not other countries do the same, irrespective of what their competitors are doing? The answer is simple. In competition with India and Japan, England has secured certain initial advantages, some natural and some acquired. The position of England in the centre of the earth's land-masses makes her an ideal distributing centre; her transport and finance systems are among the best in the world; owing to her early start in the industry, her operatives have acquired special skill and efficiency; and this list of England's initial advantages may easily be lengthened out. Now, it is possible for her to go on undertaking new programmes of social and industrial reform till the cost of these programmes neutralises the monetary equivalent of her initial advantages. Even after this set-off is effected, England may still make further improvements in labour conditions, but such



improvements will have to be paid for either by the additional efficiency of English labour accruing as a direct result of these improvements, or by any other advantage she may obtain over India or Japan, such as the adoption of better technique, a greater degree of inventiveness in cost-reducing systems, etc. Where these fail, the inexorable doctrine of comparative cost will once again assert itself, and any further advance in labour standards will automatically cripple her competitive efficiency; when hard pressed, as at the present moment, there may even be an attempt to lower her labour standards, since otherwise the English worker might be exposed to the dangers of unemployment and starvation.

Here we may conveniently examine the argument that, other things being equal, the country with the greater labour cost will naturally suffer in competition with a country where it is lower. What is here overlooked is that labour cost is a resultant of both the wages and the output of a given labour force; and it has invariably been the case that the productive capacity of low paid labour is less than that of dearer paid labour. Low wage rates, by themselves, therefore, do not constitute an element of unfair competition, but will have to be discounted by the coefficient of efficiency. There is, besides, another consideration which has to be taken into account in discussing this "pauper labour" argument. As Prof. Bowley says, "As a matter of fact, it has been the case in the whole epoch of international trade, that exchange of goods has continued between nations whose economic conditions have differed enormously without injury to either; for example, between China or India and England or America. A plentiful supply of cheap labour in a country from

which goods are obtained is as great an advantage to the purchaser as are favourable natural conditions. The purchaser obtaining some of his commodities in return for little payment can devote his money and effort to increased output of goods for the production of which other countries have no special advantage. If there are no goods which the progressive nation can export, then it cannot pay for the foreign goods, and trade ceases. Broadly speaking, it is a pecuniary advantage to one country, if the inhabitants of others will work hard and for little remuneration in producing needed goods just as it is an advantage if they develop their natural resources or increase their efficiency." Prof. Bowley realises that, for a time, during a period of change, difference in labour cost is likely to operate to the temporary disadvantage of the country of higher paid labour. Thus, as was explained before, if, in the competition in cotton goods between England and Japan, the Japanese workers have the same efficiency as the English workers and are content to work longer hours at smaller wages, they will oust England from the trade, and equilibrium will be restored only when Lancashire capital and labour could be transferred to industries where they are more secure from foreign competition. This process of capital and labour being transferred from one industry to another as a result of altered circumstances is a continuous one, and when the reorganisation has to be effected suddenly, unemployment in the competitive trade is the inevitable result. But, as Prof. Bowley emphasises, "the antidote to competing cheap labour is not artificial protection, but the greater efficiency of well paid labour."

There is, however, another class of cases, even more

numerous today than in former times when the social conscience of the community was yet dormant, which calls for attention; it relates to the conditions under which an improvement of labour in certain directions is urgently called for, even though it may not lead immediately to greater efficiency. Take the historic example of the match industry. Formerly, when matches were universally made of white phosphorus, which is a poisonous substance, the workers in the industry were exposed to a loathsome and terrible disease. When it was discovered that matches could be made of red phosphorus, which is chemically identical, but has the advantage of not leading to phosphorus poisoning, it was everywhere felt that the use of white phosphorus in the manufacture of matches should be prohibited. Now, red phosphorus costs a little more, and if any match manufacturing country had adopted it as its raw material, the cost of production in that country would have become slightly higher than in other competing countries where white phosphorus was still being used, and the reformist country would have been compelled to go out of the international trade in matches. What would be the result? The workers in red phosphorus would have been protected from phosphorus poisoning, but only to be exposed to the greater miseries of unemployment and starvation. Improvement on the national scale is here only possible at the cost of destroying the manufacture, and the ultimate demand for other goods which the change may bring about will give little help to the persons whose usual occupation will have disappeared. If, however, all states engaged in the manufacture of matches simultaneously agree to prohibit the use of the

poisonous raw material, the international position of each of these states as regards competition will still remain the same as before, as the rise in the cost of production consequent on this prohibition will everywhere be the same. The same argument is true as regards other industrial reforms. If you would abolish night work in factories, it will take longer to recover the purchase price of your plant from profits, and your interest charges will mount up and add to the cost of production. The same is true whether you want to forbid the employment of women in dangerous trades, or to raise the age of children for admission to industrial employment. In all these cases, there will be the opposition of people who will agree that the proposed reform is a humane one, but ask what the position of their country will be *vis-a-vis* the countries which compete with them and which are not disposed to adopt the same reforms. Even though it is now fully recognised that the dominant motive underlying this kind of reform is sociological and not purely economic, the practical difficulty is still there that social progress will tend to come to a stop until the same or substantially the same reforms are simultaneously adopted by the other competing countries. It was this consideration which converted men to the view that the co-operation of all industrial nations, not only in Europe and America but also in the Far East, was needed to translate their new ideal of social justice into current practice in everyday life.

I might as well admit here that the term 'international labour legislation' is not a very happy one. If it were to apply to all the existing legal principles concerning workers which find a place in every system of na-



tional law, then this branch of legislation would today cover an extensive field, and it would incidentally be noticed that there is much greater similarity between the various national systems of labour laws than between the corresponding Civil Codes. But a lengthy analysis of this kind, however interesting it may be, lies beyond the field of our study, and we are not here primarily concerned with the fortuitous labour enactments of the different nations and the extent to which they are identical. Our purpose is rather to trace the development of the idea that labour legislation should be international in order that we may find an adequate remedy for the common industrial evils of our times, and the gradual translation of this idea into actual practice. In a sense we may say that the idea of international labour legislation was born almost at the same time as the idea of national labour legislation. One of the earliest names to be mentioned in this connection is that of Robert Owen (1771-1858). Since he was the first to advocate legislation of the kind we are considering, a few words may be said about this great pioneer. Born in New Town (in Wales) in 1771 as one of a family of thirteen children, and of parents too poor to give him any education, he educated himself in the battle of life, and soon amassed a comfortable fortune in the cotton trade of Manchester. After 'making good' himself, he devoted the rest of his long and strenuous life to the advocacy and practice of social reform of all kinds. It is not too much to say that he was the father of popular education and of the co-operative movement, for he believed in education for the young and co-operation for the adult as the two levers which would ultimately lift society to higher

planes of life. At his mills in New Lanark he introduced shorter hours of labour and started co-operative stores for his workers. Even in those early days he visualised the importance of international co-operation in safeguarding conditions of life and labour, for he saw that the era of peace which followed the Napoleonic Wars was sure to open up a time of industrial competition between the nations. It was thus that he found himself at the Peace Conference of the Holy Alliance pleading that international regulation of labour should be made one of the conditions of the new peace. At the congress of Aix-la-Chapelle, however, his cause did not gain sympathetic hearing, but already there were thinking minds here and there throughout Europe which were prepared to take up Owen's ideas and to obtain for them greater currency. Thus in 1839 the French economist, Blanqui, in his "Cours d'economie industrielle," once again took up the tale and advocated the conclusion of international agreements to regulate labour conditions. "So far," declared Blanqui, "treaties have been made between the various powers for the purpose of promising to kill men. Why not make treaties to-day to preserve their lives and make them happier"? It was, however, left to an Alsatian manufacturer, Daniel Le Grand, (1783-1859), to be the first after Owen to approach Governments. In 1841, when the French Government was considering a Bill on the work of children in factories, Le Grand asked for an international law limiting the running of machinery to 12 hours a day. From this moment onwards the idea of internationalising workers' protection never left him, and from 1847 he began addressing various letters and memorials on the subject to the Chiefs of Governments and to international

congresses. The title of his appeal of 1847 indicates clearly the object he had in view; it was "addressed to the Governments of France, England, Prussia, the other German States and Switzerland with a view to adopt national laws and also international legislation for the protection of the working class against work excessive in amount and at too early an age, the primary and principal cause of its physical deterioration, its moral degradation and its deprivation of the blessings of family life." Le Grand did not content himself with a general appeal but laid down a detailed programme, which is of great significance to us because most of the reforms advocated by him have since formed the subject of Conventions adopted by the International Labour Conference. Even though his efforts met with the same fate as those of Owen they had not been wasted; for his thesis was welcomed by the International of Karl Marx, by the Swiss Canton of Glaris, and, in 1866, by the Geneva Congress of the International Working Men's Association. From 1876 onwards, Colonel Frey took the matter up in the Swiss National Council, and in 1881 it considered a motion presented by him inviting the Swiss Federal Council to enter into negotiations with the principal industrial States with a view to the adoption of international legislation regarding factories. The Governments were in fact consulted, but their replies were distinctly discouraging. From 1880 to 1890, an increasing number of proposals regarding international legislation was brought before various parliaments and congresses, among others by Count Albert De Mun and Edouard Vaillant in France; by Mgr. Kopp and Father Winterer in Germany; by M. Helleputte in

Belgium; by Prince Lichtenstein in Austria and by Decurtins and Favon in Switzerland. That is to say, the present-day socialists, radicals and the Catholic Socialists advocated international labour reforms, while among those who were opposed to this legislative development were Prince Bismarck and Karl Bucher. In 1885 Bismarck declared the protection of workers by international agreement impossible and impracticable; four years later, however, it appeared that this development would presently become both possible and practicable.

In the October of 1887, the Swiss National Council, on the initiative of Decurtins and Favon, adopted a motion inviting the Federal Council to undertake fresh *pourparlers* with various governments on this subject, and on the 15th March 1889, the Swiss Federal Council addressed an invitation for a preparatory conference to be held in September. France, Belgium and the Netherlands were among the governments which accepted the invitation, and Germany was among those which did not reply. On account of political developments, however, the Conference had to be adjourned for a few months, and fresh invitations were issued for a Conference to be held on Monday, the 5th May 1890. On the very date that the invitations were sent from Berne, an Imperial Rescript was issued by William II of Germany charging Prince Bismarck to call the same Powers together for a conference at Berlin to discuss the same questions. In this rescript occurs the sentence: "The difficulties which oppose themselves to the betterment of the conditions of our workers and which result from international competition can be, if not surmounted, at least diminished, in no other way than by the international



agreement of the countries which dominate the international market." On hearing of the Emperor's project, Switzerland overlooked the grave international discourtesy implied in William II's action, "being desirous above all of the successful issue of the work which she had at first taken in hand." The *sans-gene* of William II had the result of putting the invited governments on their caution, and though they agreed to meet in Berlin, they thwarted the purpose of the conference before-hand with national rivalries and reserves. Meanwhile, Bismarck himself was far from being anxious to ensure the success of the conference, and Monsieur Alfred Dumaine, an ex-Ambassador of France in Berlin, has told us how, against all precedent, Bismarck went in person to the French embassy at Berlin and requested Monsieur Herbette, who was then the French Ambassador, to induce the French Government to abstain from participating in the conference. It was under these circumstances that the conference met at Berlin on the 15th March 1890. Twelve States attended and a great variety of questions was discussed; but the Conference proved abortive and all that it was able to do was to formulate a series of pious wishes. The followers of the School of Economic Liberalism received the news of this check with great satisfaction, and indeed hailed it as a victory for their principles. But the initiative of the German Emperor had attracted the attention of the world, voluntary effort was now thoroughly stirred, and Christian social reformers, with such men as Bishop Kettler at their head, strove hard to thrash out principles of labour welfare consistent with the teachings of Christianity. Their efforts culminated in 1893 when Pope Leo XIII issued

his famous Encyclical, *Rerum Novarum*, on "the condition of the working classes." The Sovereign Pontiff not only insisted on a greater degree of natural justice being shown to the working classes of all countries, but he rounded off his teaching by stating in a letter to Decurtins that "the protection given to the workers would obviously be very imperfect if it were secured only by national legislation, for on account of international competition, the regulation of labour conditions here or there would lead to the expansion of the industry of one nation to the detriment of another."

The Pope having given a lead to the cause of international social reform, it was no longer open to consider the question a purely party matter. In the August of 1897 an international labour congress was held at Zurich where Catholics, socialists, and workers' organisations were strongly represented; and another followed shortly after (September) in Brussels consisting mainly of economists. Both these Congresses advocated international regulation of working conditions, and the Brussels Congress appointed a Committee of three persons (one of whom was Ernest Mahaim), who was later on to become a much respected member of the Governing Body of the I. L. O.) which after two years' work drafted the statutes for an International Association for Labour Legislation which was formally launched by the Labour Legislation Congress of Paris held in 1900. The permanent headquarters of the newly founded Association was at Basle, and one of the members on its French Committee was Albert Thomas, the socialist leader, destined after nineteen years to see the International Labour Office of the League of Nations founded under his direction. The

Association had constituent committees in 15 States and the first Conferences under its auspices were held in 1905 and 1906 when two international conventions for the abolition of the use of white phosphorus in matches and the prohibition of the night work of women were adopted. Encouraged by its success, it called another preparatory conference in 1913 to settle the basis of two other conventions for the regulation of the working day of women and the prohibition of night work for "young persons." A second conference was called in 1914 for the formal ratification of the decisions taken in 1913, but unfortunately, owing to the outbreak of the Great War, it did not meet at all.

Thus the International Association for Labour Legislation was able to initiate successfully a series of international conferences and arrive at international conventions on certain labour matters. It is, of course, true that it took a long time to achieve results, but this was due to the fact that an entirely new procedure had to be evolved for the regulation of the work of the conference, which, in itself, was something new in international history. After the diplomatic rebuff that Switzerland had received at the hands of the Kaiser, every country fought shy of taking the initiative in summoning fresh conferences, and therefore the summoning of a new conference involved much preliminary negotiation and cautious *pourparlers*. Secondly, the Berne system of a technical conference, where the technical details of conventions were first settled by experts from various countries, to be followed by a diplomatic conference, at which the plenipotentiaries of the various countries formally accepted the decisions of the preparatory technical con-

ference, was both cumbrous and dilatory, and was not adapted to the swift transaction of public business. A third point to be taken into account in passing judgment upon the work of the Berne Conferences is that they had at the time no organisation to follow up the work of each conference and to summon periodical conferences afresh to deal with changing economic circumstances. Lastly, organised labour had not yet obtained sufficient authority to be represented at these conferences in its own right; it was there as a suppliant at the gate and not as an equal. All these difficulties had somehow or other to be gradually surmounted, and we shall see in the next lecture how the Treaty of Versailles has succeeded in meeting them.



### III

#### THE MACHINERY OF THE I. L. O.

In my last lecture, I had pointed out how difficult it was for any social progress to be made in any one country if at the same time similar or equivalent progressive steps were not adopted by the other industrial countries which are its competitors. To bring about international understanding and agreement on this matter, it was necessary to bring the nations together, and even though the Berne Conference had evolved a technique for this purpose, it was not free from serious defects. The difficulty of arranging separate conferences to deal with separate bits of social reforms as the necessity for them emerged, the tedious, wearisome and unnecessarily dilatory double-conference procedure which Berne had adopted, and the fact that none of the conferences had devised machinery to ensure that the result of its labours was permanently conserved for human society by its adoption in common practice,—all these pointed to the necessity for a departure from the existing practice. One of the principal reasons why international social progress had not shown more rapid development during the century preceding the Great War, in spite of the fact that it was a time of great intellectual ferment, when many leading and influential minds were busying themselves with schemes of social reform, was that none of them contemplated the creation of a permanent organisation which could act as a link between one conference and another and take up in the interval the work of public education and propaganda so that the governments which participated in the conference did not satisfy themselves

with merely pigeon-holing the agreements arrived at. Even so early as in 1906, Great Britain foresaw the necessity for the creation of machinery of this kind, and at the Berne Conference of that year she tabled a proposal for the formation of a permanent labour commission on which each of the contracting states would be represented, whose duty would be to serve as a link between the various countries on industrial questions, to investigate matters of dispute and complaints submitted to them, and to report on them by simple statements of facts. Germany, Austria, Hungary and Belgium opposed this motion, and the idea of setting up a commission had, therefore, to be abandoned. Nevertheless, the other delegates who met at Berne adopted a resolution favouring such a commission being set up as a consultative body (1) "to advise, inter alia, as to the relatively uniform conditions upon which States outside Europe could join the Convention (regarding night work for women) together with Colonies and Protectorates, as their climatic conditions and native populations necessitate modifications in details of the Convention, and (2) to act as an intermediary body for the exchange of preliminary views, without prejudice to the initiative of each contracting State, when the High Contracting Parties agree as to the utility of arranging new conferences on the subject of labour."

Here then was a direction in which the Berne system had to be modified and improved; but even more than this defect in the Berne machinery for labour legislation, there had by now arisen another factor which was clamant in its demands for recognition. In the technical and diplomatic conferences of the pre-

war days, the party most interested in the solution of the industrial problems for which they were convoked, namely the working man himself, was left in the cold, but the onward spread of democratic ideals during the second half of the 19th century had invested him with a new status and dignity. Within two generations before the War, representative democracy had become an established feature in most civilised States and there was a correspondingly growing demand on the part of the emancipated peoples for the extension of the democratic control to the social and economic spheres. The passage of time has only tended to make the demand more vocal that the power of the State should be used to attack poverty, to bring about a more equitable distribution of wealth, and to secure for the worker a better share in the produce of industry. Karl Marx, as we have seen, gave this movement an extreme twist by teaching that no process of gradual amelioration could do any good, but that there must be a violent upheaval to be followed by the reconstruction of the whole social order under the dictatorship of the proletariat. Between the Marxians and the Socialists and the Parliamentary Labour Parties, which had by now grown up in various countries, there was this feeling in common, that the ascendancy of the old ruling classes should be destroyed and that power should be placed in the hands of direct representatives and members of the working classes. This attitude was only confirmed and strengthened by the lessons drawn from the War, during which the whole manhood of the belligerent nations was lifted out of its habitual occupations and shaken in its allegiance to the established order. The elements of social revolution were thus already

present in Europe and the only question was whether the change was to be accomplished gradually and peacefully, or suddenly and with violence.

During the earlier days of the War, however, democracy slowly yielded to autocracy, and realising that the times were abnormal, the working classes acquiesced in the suspension of many labour laws and the curtailment of the right to combine and to strike. Soon, the attitude changed, and the workers demanded to be heard both in national parliaments and in international assemblies, in order not only to win back the privileges they had enjoyed before the war, but also to secure additional protection against the employer. An early manifestation of this desire to secure additional ground was their attempt to obtain a share in the management of factories through workmen's delegates in France, shop-stewards in England, and workmen's committees and councils in Germany and Russia. In April 1916 the French Minister for Armaments gave the working classes representation on a committee he set up to advise as to the organisation of labour in war factories; and in July of the next year he asked the French manufacturers to give workers' representatives a voice in the management of plants. By the end of 1916, Germany had already adopted a law setting up workmen's committees in all establishments employing 50 or more persons. In Great Britain, Whitley Councils, organised by factory, by district and on a national scale, had come into being, each council being made up of representatives of the workers and of the employers. In fact, this was a time when labour influence showed a visible expansion, and the Governments, realising the necessity for carrying



the working classes with them so that the war might be prosecuted efficiently, were compelled in many cases to support labour's claims. In our own country, the political agitation initiated by Mrs. Besant's Home Rule movement led to strikes in several factories which were then concentrating on war production. The leaders of the Home Rule group realised that their political movement could not make much progress without the support of organised labour, and it was during this period, therefore, that we first see the beginnings of political interest in trade union organisation. The strikes of 1920-21 at Madras were in fact a counter-part of the labour agitation taking place at the same time in several European countries, and it would be wrong to imagine that the Indian labour unrest of that period was entirely due to political causes. As pointed out by the Director of Industries in Bengal, "what appears to have occurred in 1920 is that isolated strikes..... were suddenly taken as a pattern of what might well be repeated, and there followed a process of accumulating irritation which gained in strength owing to the continued successes achieved. This process was lubricated by public discussion in newspapers and by the active interest which was taken in some strikes by publicists not belonging to the working classes who began to express on behalf of workmen arguments regarding labour which had hitherto been heard more often in Western countries than in India." The fact that a large number of leading employers were Europeans has been availed of as an argument to show that the incipient germs of nationalism and xenophobia were to some extent responsible for the growing industrial strife; and the identification of Home

Rule leaders like Mr. B. P. Wadia with labour has served to lend support to this view. In parenthesis, it may here be remarked that it was Mr. Wadia who first raised the question of trade union legislation, till then non-existent in India. When, under his leadership, the Madras Labour Union engaged in its first tussle with the Buckingham and Carnatic Mills, an interim injunction was obtained from the High Court restraining the Union leaders from interfering with the business of the millowners. The case was eventually withdrawn on the dispute being settled, but the proceedings suggested that, in the absence of legislation, even legitimate trade union activity was exposed to serious danger. This incident led to Mr. N. M. Joshi moving a resolution in the Indian Legislative Assembly in March 1921 to the effect that speedy steps should be taken to introduce the necessary legislation for the protection of Trade Unions. It was, thus, during this period that India first established her right of freedom of association. To this extent, and because, *au fond*, the labour activity of the years following the termination of the war was a genuine protest against unhealthy and ill-regulated conditions of work, the action of the Indian workers may be regarded as a parallel line of advance to those in which their confreres in Europe were engaged at that time.

Thus, on the national plane, the efforts of the working men to lay the foundations of a system of industrial democracy were slowly but surely making themselves felt. Besides, the worker's interest at this stage was not confined to the redress of present grievances or to ameliorative action on a purely national plane. Rather, he was scanning the horizon to see how the War, about

the aims of which he had heard so much, was going to shape the future of the world. He had been told that the War was a war for greater freedom, greater justice and a more stable basis of democracy. If this were so, he wished to have a part in the making of the future, for he had come back with a vague resolve that the political system which resulted in the miseries of the trenches and the social system which made men mere tools in the hands of their masters should be replaced by something better. It is possible to catch echoes of this feeling in Lloyd George's speeches during the Khaki Election, when he proclaimed that he wanted to make England a land for heroes to live in. In 1919 he said: "Millions of brave young men have fought for a new world, hundreds of thousands have died to insure its triumph. If we fail to redeem our pledges to them, we shall be everlastingly dishonoured. It should be a sublime duty for every one, without any thought of personal or party interests, to help in the building of a new world in which Labour will receive its just reward and culpable idleness alone will be exposed to want." Coupled with this feeling was the revival of the spirit of internationalism, which during the war was more or less scotched; and towards the later stages of the war, international socialist conferences began once again to be convoked, and it was in this forum that was elaborated the substance of the labour plan later on to be embodied in the Peace Treaty.

Curiously enough, it was America which gave the Old World an active lead in the direction of international social progress. Gompers, the president of the American Federation of Labour, regarded the war as a crusade

for human freedom, and American labour was in complete agreement with President Wilson that the victory should be used to put the world upon a new basis, political and economic. Thus, the American Federation of Labour, at its annual meeting of 1914, adopted a resolution proposing the holding of an international labour conference at the same time and place as the Peace Congress, in order that Labour might not be left out in the new endeavour "to mould the world nearer to our heart's desire." Copies of this resolution were sent to the International Federation of Trade Unions and to the national trade union organisations of all countries. On the first of May 1916 this proposal resulted in a request to the Allied Supreme Council to consider the holding of an international labour conference. A commission was appointed, consisting of labour leaders from Great Britain, France, Italy and Belgium, to prepare for the conference, which assembled at Leeds in July 1916. By far the most important resolution passed by the Leeds Conference was the following: -- "The conference declares that the Treaty of Peace which will end the present war and which will give to peoples freedom, and political and economic independence, must also place beyond the reach of capitalistic international competition and secure for the workers of all countries *a minimum of moral and material guarantees regarding the right of work, the right to organise, regulation of imported labour, social insurance, hours of work and the health and safety of the workers.*" The resolution also urged all countries to create or perfect their labour departments and to supervise the enforcement of all labour laws and more particularly those that have an

international character. An International Commission was to be appointed to watch over the execution of labour agreements, and an International Labour Office was to be established to gather material regarding the development of labour legislation, and to create uniform methods of statistics so as to help comparability, etc.

The American move for linking labour with the Treaty was thus gaining momentum; and additional support to the idea came from two or three subsequent international gatherings. Thus, delegates from the neutral and central powers met at Berne in 1917 under the auspices of the Swiss Federation of Labour and demanded that the International Association for Labour Legislation, which had convoked the Berne conferences of 1905, 1906 and 1913, and was still keeping itself alive, should be explicitly recognised in the Peace Treaty as the medium for the promotion and enforcement of international protective labour legislation. On the 31st January 1919, the Peace Conference appointed a Commission on International Labour Legislation with the following terms of reference: "To enquire into the conditions of employment from the international aspect, and to consider the international means necessary to secure common action on matters affecting conditions of employment, and to recommend the form of a permanent agency to continue such enquiry and consideration in co-operation with and under the direction of the League of Nations." While this commission was in session, an international socialist conference was held at Berne (2nd to 9th February 1919), which was attended by 90 delegates representing 25 countries. The significance of this conference from our point of view is that it was here that was first elaborated

a detailed labour charter, including an eight-hour day, a weekly rest period, prohibition of women's night work, a six-hour day for children between 16 and 18 years of age, a system of social insurance, freedom of association, a system of employment bureaux, and the creation of a permanent commission for the application of international labour legislation. There were also other conferences of somewhat lesser importance held either just before, or simultaneously with, the sessions of the International Labour Legislation Commission, all of which advocated the definite establishment by the Peace Treaty of a permanent organisation to deal with international labour. It is worth while keeping this in mind, since there is a tendency to regard the I. L. O. as a creation of the Peace Conference alone, whereas, as a matter of fact, all that the Peace Conference did was to take up the ideas already formulated in great detail and to present them in a form acceptable to the Powers participating in the Peace Conference.

It is perhaps not without reason that the appointment of the Labour Commission was one of the earliest official acts of the Peace Conference. Without going into the details of the interplay of forces which made the Peace Conference of Paris an interesting study both for the psychologist and for the student of public affairs, it may here be summarily stated that, though the representatives of the nations who had met together to lay down the terms of peace were unable to agree on a great many points, they were at one in realising that the temper of Europe was just then restive to the breaking point. The workers in all countries had not only become class-conscious, but their patience with the existing social system

was becoming rapidly exhausted. Already the Bolshevik Revolution of 1917 had resulted in the social upheaval of Russia, and the oppressed of all lands watched this experiment with fascination and hope. A result of the Bolshevik success was to encourage the demand for thorough-going social and economic reforms everywhere. In 1918 the new spirit had invaded the countries of the Central Powers, and by October, the rising tide had swelled up in the Revolutions which spread through Bulgaria, Hungary and Austria, and culminated in the German Revolution of the 9th November. For a time, during the chaos of the first year of the Armistice, it seemed likely that all Europe would be affected, and there was a legitimate apprehension that, unless the existing political and economic system were buttressed and fortified, what had happened in Russia might happen in other parts of the world. The appeal of Russia had therefore to be met with a counter-appeal, and since the message of the Third International was to the oppressed workers of all lands, it was felt that the powers represented at Paris, whose political and economic stability was threatened by the new movement, should also make a generous gesture to the working classes. It was thus that, stricken with the "fear of change which perplexes monarchs," the countries represented at the Peace Conference agreed to weave into the fabric of the Treaty the part relating to the I. L. O.

Nowhere was such a counter-appeal to Russia's meretricious promises so urgently needed as in the Asiatic countries where the extreme poverty and squalor in which the working classes lived transformed the entire continent into a field ripe for the reception of all kinds of subver-

sive doctrines. Men, women and children were being there used up, and Mr. Brailsford once remarked that, in industrial centres like Bombay and Calcutta, revolution lurked in every street corner. Unless the industrial conditions in these countries were improved, it was inevitable that the Russian example should blaze the trail for a sudden upheaval in Asia. Mr. G. N. Barnes has told us in this connection that there was also another consideration present in the minds of the members of the International Labour Commission. The East was the great field of supply for the raw material of European industry, but that raw material was now being increasingly manufactured on the spot by cheap Asiatic labour and was supplanting the goods from the countries of the old industrial world. To give an illustration, the Dundee manufacturers having made money in jute have now sent their capital down to Calcutta where the fibre is grown, and it is there employed in competition both with the Dundee jute product and with Dundee jute workers. The East is ceasing to be a mere customer and is rapidly becoming a competitor, enjoying in some respects an advantage over the Western world. While capitalists were thus threatened with a loss of markets, the worker was concerned in a different way. To him also the progress of Eastern industrialism spelt danger, for if Indian operatives were to be left to work long hours of labour, then it was obvious that the standard of life of the Dundee operative would be jeopardised. The only way, or at all events, the best way to safeguard Dundee was to raise Calcutta, for while it was in the order of things that industrialisation should spread to the East, it was not at all either necessary or inevitable that the workers



in the East should live under miserable and unclean conditions of life. Besides, so long as the standards of life and of purchasing power slowly rose in the East, the manufacturing countries of the West had nothing serious to fear from Eastern competition, because the increase and diffusion of general prosperity can only be an unmixed boon to humanity. It was felt that an international labour organisation, once created, would promote a rise in Eastern standards of life, and in so doing raise international competition to a higher level.

The main idea underlying the scheme of the International Labour Organisation is that the establishment of the League of Nations will not provide a real solution for the troubles which have beset the world in the past, and will not even be able to eliminate the seeds of international strife, unless it provides a remedy for the industrial evils and injustices which mar the present state of society. In proposing, therefore, to establish a permanent organisation in order to adjust labour conditions by international action, the Commission felt that it was taking an indispensable step towards the achievement of the objects of the League of Nations. What are these objects? The two fundamental objects for the realisation of which the League has been created are the promotion of international co-operation and the achievement of international peace and security. Though the League Covenant confines itself more or less specifically to the procedure to be adopted in the event of national rivalries breaking out into open war, there is at the same time an Article in the Covenant which deals with some of the non-political methods of international co-operation. Thus Article 23 of the Covenant reads as follows:—

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League

- (a) will endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations;
- (b) undertake to secure just treatment of the native inhabitants of territories under their control;
- (c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;
- (d) will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;
- (e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;
- (f) will endeavour to take steps in matters of

international concern for the prevention and control of disease.

The idea dimly adumbrated in paragraph (a) of this Article has been elaborated in Part XIII of the Treaty, the Preamble to which defines the objects and scope of the proposed organisation. Let me read out this Preamble to you :

“Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice ;

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled ; and an improvement of these conditions is urgently required : as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provisions for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of freedom of association, the organisation of vocational and technical education and other measures ;

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries ;

The High Contracting Parties, moved by sentiments

of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to the following ;”

The organic connection between the League of Nations and the International Labour Organisation is thus established ; but the idea seems to need further stressing. The League and the I. L. O. are mutually supplementary and complementary in that the former endeavours to accomplish on the political plane what the latter endeavours to accomplish on the social and economic plane and there is much common overlapping ground on which both organisations are building their plans to promote international harmony. The objective of the League is to bring about peace between nation and nation, and the most important Articles in the Covenant relate to the limitation of armaments or to the procedure for the settlement of disputes between country and country. But in every country there are different layers of society which are animated by conflicting economic interests, and with the universalisation of industry, corresponding differences in social stratification have been reproduced all over the world. If, therefore, the object of the League is the establishment of universal peace, it is clear that it will have to deal not only with political problems, but also with economic and social problems. It is in response to this desire to provide machinery for the final solution of all social discord that the I. L. O. has been created. While, therefore, the League of Nations stands for horizontal peace,—peace, that is to say, between State and State,—the I. L. O. stands for vertical peace,—peace, that is to say, between the different layers of human society. It is because of this that the I. L. O. is justly regarded as an integral part of the League.

The Commission of the Peace Conference on International Labour Legislation held 35 meetings and drew up its conclusions in two parts. The first was a draft convention containing provision for the establishment of a permanent organisation for international labour legislation. This convention, which is based on a draft presented by the British Delegation, was the subject of the most careful examination and discussion. The second part of the Commission's conclusions is in the form of clauses containing declarations of principle in regard to a number of matters which are of vital importance to the labour world.

In describing the machinery of the permanent organisation proposed to be set up, I shall follow the report of the Peace Commission on International Labour Legislation. In the first place it is stipulated that participation in this organisation shall be a condition of membership of the League of Nations, since every State under the League is morally bound to accept the principle set forth in the Preamble, if it has really at heart the promotion of the cause of justice and humanity. But there have been several cases of countries which are not members of the League or had resigned their membership of the League, which have been accepted as members of the I. L. O. Thus, Germany and Austria were invited to be members at the opening of the first I. L. Conference at Washington in 1919. Whatever may have been the objections of the Allies to certain former belligerent nations entering the League, no reasonable case could be made out for excluding any important industrial country from the I. L. O. To have excluded Germany and Austria would have been to limit the sphere of usefulness

of the Organisation from the very start. Finland was also permitted to take part in the first two I. L. Conferences before it became a member of the League. All these three countries have now been admitted to the League, but the problem is yet a live one, since Brazil still continues to be a member of the I. L. O. even though she resigned her membership of the League in 1926. The question whether the I. L. O. has the right to admit States to full participation when they are not members of the League has not yet been finally solved, but the opinion has been expressed that there is no definite rule of positive law which prevents countries from continuing to belong to the I. L. O. even if they have withdrawn their adherence from the League. The Special Commission set up by the Washington Conference to decide the admissibility of Finland was of opinion that the wording of Article 387 of the Treaty permitted countries to belong to the I. L. O. even if they are outside the League of Nations. This view has been contested by many international jurists, and a controversy might yet arise if and when, for example, the U. S. A. wants to adhere to the I. L. O. without becoming a member of the League, or Italy wishes to retain her membership of the League and withdraw from the I. L. O. However that may be, the participation in the I. L. O. of countries which do not adhere to the League may be interpreted as a proof of the wider universality of the I. L. O. and of the more extensive range of its appeal and utility.

The permanent organisation is divided into two parts: (1) a general conference of representatives of the members and (2) an International Labour Office con-

trolled by a Governing Body. The Conference meets at least once in the year, and consists of 4 delegates nominated by each of the Member States, two of whom are directly appointed by the Governments and the other two are chosen in agreement with the industrial organisations which are most representative of employers and workpeople respectively in any particular State. Each delegate will vote individually. It was strongly felt by the Peace Commission that if the Conference was really to be representative of all those concerned with industry and to command their confidence, the employers and workpeople must be allowed to express their views with complete frankness and freedom, and that a departure from the traditional procedure of voting by national units was therefore necessary. It was accordingly decided that the employers' and workers' delegates should be entitled to speak and vote independently of their governments. Thus in effect, each government sends not one delegation, but three delegations, and this principle of a composite delegation, which the I. L. O. is the first political institution to recognise, is a very significant one as showing how the idea of class or vocational representation has rapidly gained ground in the world of political thought. Besides, as Professor Shotwell has pointed out, this was the first time in the history of international law that unofficial delegates—mere citizens representing national interests in labour or capital—were permitted to vote with similar representative citizens of other countries, independently of the action of the representatives of their governments, and so to help actually to bind those governments to certain international policies and treaties.

There was some difference of opinion at Paris as to the relative numbers of the delegates representing the governments, the employers and the workpeople respectively. The French, American, Italian and Cuban delegations contended that each of the three parties should have equal voting power. They maintained that the working class would never be satisfied with a representation which left the Government and the employers combined in a majority of three to their one. In other words, the present arrangement was likely, by giving the Governments a veto on the procedure of the conference, to create so much distrust among the workers that the influence of the I. L. O. might be seriously prejudiced from the start. This view was contested by the British, Belgian and other delegations, which pointed out that as the Conference was not simply an assembly for the purpose of passing resolutions, but would draw up draft conventions which the States would have to present to their respective legislative authorities, it was essential that the governments should have at least an equal voice. Otherwise, it might even happen that conventions adopted by a two-thirds majority of the Conference would be rejected by the legislatures of the various States, which would have the effect of rendering the proceedings of the conference nugatory and would at the same time destroy its influence and prestige. The adoption of a proposal to which the majority of the governments were opposed would not lead to any practical result, as the legislative authorities of the Governments, whose delegates were in a minority would, in all probability, refuse to accept it. Moreover, it was likely that the Government delegates would vote more often with the workers



than against them, and if this were so, it was obviously to the advantage of the latter that Governments should have two votes instead of one, as it would render it easier for them to obtain a two-thirds majority which, under the Franco-American proposal, would be practically impossible if the employers voted in a body against them.

The original proposal has thus been maintained that Governments should have two delegates and that employers and workers should be represented by one delegate each. It is only fair to the Commission to say that its recommendation has been justified by the experience of the last ten years. An analysis of the votes cast at the Washington Conference of 1919 reveals that the total government vote was on the whole more favourable to the workers than otherwise. The government delegates sided with the workers frequently at other conferences as well, and of the 25 votes cast on major problems at the first six conferences, government, worker and employer delegates voted together in fifteen instances and the government delegates supported the workers in ten instances. Taking all recorded votes, the three groups voted together in 41 out of 79 votes, while the government delegates supported the workers in 23 votes. This co-operation between government and labour delegates cannot however be predicated as a constant factor, since the political complexion of governments is essentially variable. Nevertheless, there is reason to believe that a system which has already stood the test so well will not disappoint us in the future.

In addition to the delegates, the Conference is attend-

ed by expert advisers, two of whom may accompany each delegate for every item on the agenda. Though they have not usually the right to speak and vote at the plenary sessions of the Conference, they may represent their delegates in committees, and it is specially laid down that when questions affecting women are to be discussed, one at least of the advisers should be a woman. The credentials of both delegates and advisers are submitted to scrutiny by the Conference, and any one whom the Conference considers not to have been nominated in accordance with the prescribed conditions may be refused admission by a two-thirds vote of the delegates present. The Conference thus reserves to itself the right to see that the conditions laid down for the nomination of delegates are strictly complied with. Trouble about credentials usually arises in connection with the nomination of non-government representatives, and serious difficulty is sometimes caused when rival industrial organisations in the same country claim the right to be regarded as the most representative organisation. Such difficulties have also arisen as regards delegates or advisers of countries in which the employers and workers have not been able to effectively organise themselves.

The Governing Body of the I. L. O. consists of twenty-four persons, of whom twelve represent governments, six the employers, and six the workers. Of the twelve members representing the governments, eight are appointed by the eight States of chief industrial importance, and the remaining four are nominated by countries selected for that purpose by all the government delegates at the Conference, excluding those of the eight States already represented. Any question arising as to which are the

States of chief industrial importance has to be decided by the Council of the League of Nations. The States of chief industrial importance which thus won a place for their representatives in the Governing Body at Washington were Belgium, France, Germany, Great Britain, Italy, Japan, Switzerland and Denmark. The first Governing Body was hardly appointed when its membership became the object of vigorous protest on the part of India, the Netherlands, Czecho-Slovakia and Poland. These countries took exception to the list of the eight States of the greatest industrial importance as accepted by the Washington Conference, and several non-European States also raised the objection that they were given but scant representation on the Governing Body. Since it is for the Council of the League to decide which are the States of chief industrial importance, a Mixed Committee composed of representatives of the Council of the League and of the Governing Body of the I. L. O. was appointed in 1920 to determine the criteria which should be adopted in estimating the industrial importance of the various States. Seeing that economic conditions were still unsettled in those days, the Committee decided to apply provisionally the criteria drawn up by the Organising Committee of the Washington Conference, subject to certain modifications and improvements. These were: (1) the total wage-earning industrial population, including miners and transport workers; (2) the proportion which the total wage-earning industrial population bears to the whole population; (3) total horse power (steam power and water power), not including locomotives and vessels; (4) horse-power per head of population; (5) total length of railways; (6) length of railways per thousand square

kilometres of territory; and (7) development of the mercantile marine. It need hardly be said that India and the other countries which were anxious to assert their rights for a permanent representation on the Governing Body were most assiduous in pressing their cause and advancing facts and figures to support them. Here, in passing, it may be mentioned that this challenge, in which the Netherlands, Czecho-Slovakia and Poland took a leading part, was motivated more by political than by economic considerations. The Treaty of Versailles had been continually giving one special privilege after another to the Great Powers; it had provided, for example, that five of the principal Allied and Associated Powers should have permanent seats on the Council of the League. This was very much resented by the smaller Powers which insisted that, if any preference had to be given in the allotment of seats on the Governing Body, it should be given to those countries which were important from the point of view of the questions dealt with by the Organisation and not merely from the point of view of militarism or economic power. Hence arose the formula about the eight States of "chief industrial importance," which allowed Germany, one of the defeated enemy countries, to have a place immediately on this important Body. India's claim, however, was based upon the intrinsic merits of her position, and Sir Louis Kershaw of the India Office has done a great service to this country by the vigour and firmness he displayed in pressing India's case. After protracted deliberations, the League Council on the 30th September 1922 adopted the following resolution upholding India's claim:—

“The Council of the League of Nations,

Considering that the claims made to it by India and Poland, and the objections made by various other countries, in regard to the list of the eight Members of the International Labour Organisation of chief industrial importance which was prepared by the Organising Committee of the First General Conference of the International Labour Organisation and employed for the constitution of the Governing Body of the Labour Office in 1919, have raised a general question as to which are the eight Members of chief industrial importance;

And considering that by the fourth paragraph of Article 393 of the Treaty of Versailles and the corresponding articles of the other Treaties of Peace, this question is to be decided by the Council:

Decides that the eight Members of the International Labour Organisation which are of chief industrial importance are at present, in the alphabetical order of the names in French: Germany, Belgium, Canada, France, Great Britain, India, Italy and Japan.

In accordance with the resolution adopted by the Council at San Sebastian on August 5th, 1920, the present decision is given for the purpose of the reconstitution of the Governing Body of the International Labour Office, which is to be effected by the Fourth General Conference of the International Labour Organisation; and the decision is not intended to affect the composition of the Governing Body as constituted by the first Conference."

Soon after, India was assigned a seat on the Governing Body till then occupied by Switzerland. Sir Louis Kershaw was the first representative of India on the Governing Body (1922-26); and since then, Sir Atul Chatterji has been our representative on that Body. A

seat on the Governing Body is of great value to India not only as a matter of prestige, but also because it helps to bring into prominence the growing industrial importance of India and the East. Though Japan, and later, Canada and India have thus been assured government representation on the Governing Body, there yet remained the criticism that other non-European countries were inadequately represented, and for the first three years of its existence the Governing Body worked under the shadow of that censure. During that period, the Argentine and Canada (non-government delegates) and Japan (government delegates) were the only non-European countries which had obtained representation. The twenty States of Latin America were represented only by one seat out of 24. As the exact determination of the criteria constituting industrial importance had proved so difficult of solution, the Governing Body in 1922 drafted a new Article to replace the present Article 393 of the Treaty, providing for an increase of the total membership to 32. It was also suggested that out of sixteen seats which would thus fall to the share of the governments, six should be filled permanently by France, Germany, Great Britain, Italy, Japan and the United States and the other ten should be thrown open for election. This attempt at once again giving a premium to the Great Powers was not to the liking of the smaller Powers, and upon the representation of Canada and India, the proposal regarding the permanent seats was rejected and a new wording for Article 393 was adopted. This amendment to Article 393, if and when it becomes operative, will effect the following changes. Instead of a total of twenty-four members there will be thirty-two, of whom one-half will be persons re-

presenting governments, one-quarter persons representing employers, and one quarter persons representing workers. Of the sixteen government seats on the Governing Body, eight will be as before filled by the eight States of chief industrial importance and the remaining eight will be elected by the government delegates present at the Conference, excluding the delegates of the eight States mentioned above. Since this amendment has not as yet secured ratification from all the members of the League Council, the legal constitution of the Governing Body still remains what it was at the commencement. But whatever changes may happen, India has no reason to fear. Even though our statistics on the various points which will have to be considered in adjudging relative industrial importance are formidable enough, they may perhaps suffer somewhat when the large numbers of our working population are reduced to a common standard by the application of a common coefficient of efficiency. But as against this, we have to remember the decision of the Permanent Court of International Justice that agricultural workers are also included in the term industrial workers. Under this ruling, therefore, India's claim for representation on the Governing Body will be further strengthened, and large agricultural countries like China, Brazil and the Argentine are also likely to strengthen their chances to be represented on the Governing Body. The demand for additional representation made by non-European countries is sought to be met in the new amendment by the provision that six of the government representatives, two of the employers' representatives and two of the workers' representatives shall belong to non-European States. The composition of the Govern-

ing Body early in 1930 was as follows :—Belgium, Canada, France, Germany, Great Britain, India, Italy and Japan are the States of chief industrial importance, and the other four government delegates come from the Argentine, Poland, Spain and Sweden. Of the six employers' delegates only one, namely Mr. Gemmill from South Africa, comes from outside Europe; and of the six members of the workers' group the only non-European member is Mr. Tom Moore from Canada. Members of the Governing Body are permitted to have substitute delegates who, in the absence of the regular delegate, will enjoy all the rights of the regular delegate. Till 1930 only two Asiatic countries had obtained recognition even in the matter of providing substitute delegates. Thus Mr. Fujita from Japan among the employers' group, and Mr. N. M. Joshi (India) and Mr. B. Suzuki (Japan) from the workers' group have been elected substitute members. In the elections of 1928, Mr. Joshi was re-elected a substitute member of the Governing Body, and Mr. Suzuki was elected a substitute delegate for the first time. Mr. Joshi's great personal reputation at Geneva was sufficient by itself to secure for him this re-election; but the selection of Mr. Suzuki was the happy result of close collaboration between the workers' delegates of India and Japan. Up to 1930 Indian employers have not been able to put up a candidate for election either as member or as substitute member of the Governing Body, but here again, thanks to the collaboration between the delegations of India and Japan and to the group sentiment among the employers, Mr. D. P. Khaitan of Messrs. Birla Brothers, Calcutta, represented the British Empire group of employers at the Govern-



ing Body meeting held early in 1929, and it may confidently be expected that at the elections of 1931 the employers of India would obtain a place on the Governing Body\*. As it is, however, it will be seen that India has obtained adequate representation on the Governing Body for her government as well as for her employers' and workers' organisations.

The period of office of members of the Governing Body is three years, and their main functions are to appoint the Director, and issue instructions to him, and generally to supervise the activities of the Organisation; to settle the agenda for all meetings of the annual conference; to decide upon the form and contents of the Annual Reports which each of the Member States is bound under Article 408 to present to the I. L. O. regarding the measures that it has taken to carry out the provisions of ratified conventions; and to exercise judicial and discretionary powers in relation to the enforcement of these conventions and of sanctions to be applied to a defaulting state.

The most important organ of the I. L. O. is, of course, the annual Conference, which usually lasts from three to four weeks. Even though it is for the Governing Body to settle the agenda of each Conference, and it is open to Member States and to representative organisations of employers and workers to offer suggestions on this point, the Conference still remains the ultimate deciding factor in the matter; and it can, on its own motion, place any subject on the agenda of a future meeting. Except in the case of Conventions

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\* In the Governing Body elections of 1931 Mr. D. Erulkar of the Indian Chamber of Commerce in Great Britain was chosen a substitute member on behalf of the employers, and Mr. N. M. Joshi was again re-elected a substitute member on behalf of the workers.

and Recommendations, all matters are decided by simple majority, but the total number of votes cast must at least be one-half of the number of delegates present at the Conference. The decisions of the Conference on the items figuring on the agenda take the form either of a Draft Convention or of a Recommendation, and a majority of two-thirds of the delegates present is necessary for their adoption. Previous to 1926 it was open to the Conference to proceed to a final decision on any item on the agenda necessitating draft conventions and recommendations at the meeting at which it was considered. What is now known as "the double discussion procedure" was adopted in that year, by which any of the items on the agenda which leads to a draft convention or recommendation has now to be considered at two consecutive sessions. Not only does this have the same effect as the discussion of any national proposal in a bi-cameral legislature, but it also serves the purpose of giving time for public opinion to assert itself on the matters under discussion, and incidentally, also operates as a sort of *Graphe Paranomon* to check excessive legislation.

Once a Draft Convention is adopted by a Conference, the Member States undertake, within the period of one year or in exceptional circumstances within 18 months from the date of the Conference, to bring the Convention to the competent national authorities in their own countries for ratification or rejection. In the original draft considered by the Paris Commission, it was suggested that any draft convention of the conference must be ratified by every State participating unless within one year its national legislature should have expressed its disapproval of it. This implied an obligation on every State to

submit a draft convention to its national legislature, whether its own government representatives on the Conference had voted in favour of its adoption or not. This provision was inspired by the belief that, although the time had not yet come for the establishment of a super-parliament the decrees of which would be binding on all States, yet it was essential for the purpose of international labour legislation that governments should give their national legislatures the opportunity of expressing their opinion on ~~the measures favoured by the Labour Conferences.~~ The French and Italian delegations, as also the representatives of the International Federation of Trade Unions were frankly in favour of making the labour conference a super-parliament, but this view was strongly assailed by the other delegations on the ground that it involved a serious encroachment on national sovereignty. The British tendency was represented in the original proposal considered by the Paris Commission; but even this proposal was to some extent an infringement on national sovereignty. A third tendency was represented by the American delegation according to which the Conference would merely formulate resolutions which would not become binding on the Member States until formally ratified by their respective legislatures. The Americans had a further difficulty in accepting the British proposal on account of the limitations imposed on the central executive and legislative bodies by the constitution of certain federal states, and notably of the United States themselves. The American Federal Government could not accept the obligation to ratify conventions dealing with matters within the competence of the individual states of the union with which the power of labour legis-

lation for the most part rested. The Paris Commission felt that they were here faced by a serious dilemma. On the one hand, the range and effectiveness of international draft conventions would be almost fatally limited if countries with federal constitutions found it impossible to abide by their terms. On the other hand, if the scheme were so weakened as to impose no obligations on States to give effect to, or even to bring before their respective legislative authorities, the decisions of the Labour Conference, it was clear that its work would tend to be confined to the mere passage of resolutions instead of resulting in the promotion of social reforms with the sanction of law behind them. The present Article 405 of the Treaty represents the compromise subsequently arrived at. It provides that decisions of the Conference must be brought before the competent legislative authority of each country within one year after their adoption. If no legislation or other action to make a Recommendation effective follows, or if a Draft Convention fails to obtain the consent of the competent authorities concerned, no further obligation will rest on the States in question. In the case of a federal state, however, whose power to enter into conventions on labour matters is subject to limitations, its government may treat a Draft Convention to which such limitations apply as a Recommendation only. The Commission felt that there might in any event be instances in which the form of a Recommendation, affirming a principle, would be more suitable than that of a Draft Convention, which must necessarily provide for the detailed application of principles in a form which would generally be applicable by every state concerned. Subjects often come before the Conference which, owing

to their complexity and the wide differences in the circumstances of different countries, will be incapable of being reduced to any universal and uniform mode of application. In such cases a Recommendation of principles in more or less detail which left the individual States freedom to apply them in the manner best suited to their conditions would undoubtedly have considerable value, while a Draft Convention might prove impossible. It is in (this) sense that Professor Shotwell claims that the present compromise between the American and the British proposals has enlarged rather than lessened the scope of the Labour Conference. The fact that attempts at influencing legislation through Draft Conventions and Recommendations would be to a large extent merely preliminary and that they would have to overcome various obstacles before they are finally adopted by the Member States does not lessen their genuine character as legislation. The Labour Conference thus becomes a sort of parliamentary legislature in which projects are shaped for adoption both direct and indirect; and this, after all, is all that can be accomplished in an international conference so long as individual governments still make their own laws.

Provision is also made in the Peace Treaty for the proper enforcement by the various States of the Conventions which they have ratified. Each of the States has to make an annual report to the I. L. O. on the measures that it has taken to give effect to the provisions of ratified Conventions. The form in which these reports have to be presented is laid down in great detail by the Governing Body, and a Committee of the annual Conference examines these reports carefully and submits

its conclusions to the Conference itself. This Committee has already been able to point out several irregularities, and the system of regular supervision which it has initiated has secured a more faithful adherence to the prescriptions of Geneva. In 1929, for example, this Committee drew the attention of the Government of India to the fact that the eleven-hour night rest period provided under the Washington Convention regarding night work of young persons did not appear to be expressly secured by legislation in India, and enquired whether it was actually secured in practice. As a result, the Government of India have been obliged to re-examine the question and steps will soon be taken to amend the Indian Factories Act to make it conform more closely to the Convention. The report of this Committee of Supervision forms a complete Chitragupta record of the acts and omissions of the various governments as regards Conventions to which they are a party, and it is here, in the first instance, that irregularities are detected. It is also open to industrial organisations of employers or of workers to complain that any government, not necessarily their own, has failed to secure effective observance of any Convention; in such a case the Governing Body may forward the complaint to the Government concerned, and if the reply is not satisfactory, may order the publication of the entire correspondence, so that public opinion may condemn the defaulter. Thus in October 1924, the Governing Body considered a representation from the Japanese Seamen's Union in regard to Japan's application of the Convention for establishing facilities for finding employment for seamen. In this case a satisfactory explanation was volunteered by the Japanese

Government delegate and therefore it was not considered necessary to communicate the representation officially to the Japanese Government or to invite it to make a statement. But when one Government attacks another for the non-fulfilment of the terms of any Convention which has been ratified by both, the Governing Body may, if no satisfactory explanation is forthcoming, apply to the Secretary General of the League of Nations for the appointment of a Commission of Enquiry. The Secretary General will publish the report of the Commission, and any government which is not prepared to accept the report may refer the complaint to the Permanent Court of International Justice. The Court's decision is final and any Member State of the I. L. O. can enforce against the recalcitrant State the punitive economic measures set out either in the report of the Commission of Enquiry or in the Court's final order.

It has sometimes been argued that the international supervision over ratified Conventions cannot but be perfunctory and that the economic sanctions above referred to would hardly, if ever, be resorted to. The instances that I have given are, I hope, sufficient to show that the provisions for supervision contained in the Treaty are being enforced as far as it is possible to do so by an organisation which does not pretend to be a super-state. But as regards the economic sanctions, the charge does not seem to be justified. It is well known that India did not hesitate to take action against Japan when, as a result of the Tariff Board's enquiry in 1927, it was found that the Indian cotton mill industry was directly affected by unfair competition from Japan. In 1927, both in regard to hours of labour and the employment of women

and juveniles at night, the conditions of labour in the Japanese cotton industry were distinctly inferior to those of India, and, according to the instructions issued to the Committees appointed under the British Safeguarding of Industries Act, the Japanese conditions came under the definition of "unfair" competition. It was on this account that the Tariff (Cotton Yarn Amendment) Act of 1927 was passed by the Indian Legislative Assembly, Sir George Rainy, who introduced the Bill in the House, saying specifically that the object of the Bill was to put off from the Indian market every pound of yarn manufactured in Japan under less favourable working conditions than in India. With the passing of the Japanese Factory Law of 1929, the unfair element in Japan's competition has disappeared; but the Cotton Textile Industry (Protection) Act of 1930 extended the Act of 1927 till the 31st of March 1933 on the ground that China has now become a formidable unfair competitor to India in yarn production. Till the end of 1929, Chinese Law placed no limit on the hours of work either of men or of women and no restriction on the employment of children. It is true that on the 16th January 1930 a law was promulgated in China which prohibits child labour and the night work of women, and limits the hours of work generally; but there is no evidence that any steps have been taken to make this law effective, and that is why the Government of India have felt justified in imposing difficulties in the path of the import of Chinese goods into this country. A result of the economic sanctions which this country has, of its own accord, put into force against Japan has been the passing of the new Factory Law of 1929 in Japan; and it is to be expected that China will



also be soon obliged to follow suit. If our own country has thus been responsible for taking punitive action of this kind against other countries where lower standards of labour prevail, there is no reason to think that other countries will refuse to follow our example when the necessity occurs for them to do so. It must, however, be stated that international organisations like the League and the I. L. O. do not look exclusively or even primarily to penal sanctions for the enforcement of their decisions. Institutions like these represent the organised conscience of humanity, and it is for international public opinion to secure the due observance of Geneva measures by peoples and countries.



## IV

### INDIA AND THE CONVENTIONS.

Having considered the salient features of the structure and functions of the I. L. O. as set up by the Treaty of Versailles, it is now open to us to attempt a review of the work it has accomplished during the decade that has elapsed since its foundation. The subject is rather vast, covering as it does not only the work of collection and distribution of information on industrial and labour questions, which is one of the statutory duties imposed on the new organisation, but also its legislative activities as represented by the 28 Draft Conventions and 34 Recommendations adopted at the successive International Labour Conferences held in unbroken sequence from 1919 onwards. As the time at our disposal is short, the treatment adopted has to be rather summary, and attention can be devoted only to the more important aspects of the results achieved. And here let us clearly understand what we mean by the word "results." Thus, for example, when speaking of the results of the Great War, we have to distinguish between those of its results which are direct, visible, and measurable, and those others which are distant and invisible, but nonetheless real and abiding. In the same way, there are some results of the work of the I. L. O. which are visible and capable, to a certain extent, of statistical measurement, and there are others which, though their immediate causal connection with the I. L. O. takes an effort of the mind to establish, are nevertheless of the highest importance and have to be dealt with in any attempt to assay the nature of the I. L. O's contribution to the cause of social progress.

We shall deal first with the I. L. O. as a great research centre and clearing house of information on industrial and labour questions. In Article 396 of the Treaty which lays down the duties of the International Labour Office, it is stated that its functions shall include "the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour, and particularly the examination of subjects which it is proposed to bring before the conference with a view to the conclusion of international conventions, and the conduct of such special investigations as may be ordered by the Conference." The first efforts of the Office, therefore, had to be directed towards collecting and classifying as large an amount as possible of information concerning conditions of labour. Not only had it to analyse the large amount of statistics and other information appearing in the numerous publications and reports on labour and industry issued under the authority of the Governments of its member States, but it had also to spread its net wider and follow with accuracy the day-to-day developments taking place in the social fields of other countries like Russia and the United States, which do not yet participate in its work. Nor was this all; for it could not afford to ignore the reports of employers' associations and Trade Unions, the statistical and other studies conducted by various institutions, the reports of national and international conferences and other publications concerning the numerous aspects of the labour problem. As Mr. H. B. Butler has pointed out, "Exact information as to wages, hours of labour, cost of living, unemployment, migration, social insurance, industrial relations, is no longer of only national interest.

It not merely concerns the employers and Trade Union leaders in every competing country, but even the bankers, economists and political observers, whose business it is to know what is really happening abroad and to be guided accordingly." It is essential for the industrialist of today to be in possession of exact information of the various factors in other parts of the world which may have a bearing on his particular industry. But it is becoming increasingly difficult to obtain accurate and reliable information regarding conditions in other countries. None but large industrial concerns possessing considerable financial resources can afford to spare members of its staff for investigations of this kind which do not always show an immediate return. Nor has it been always possible even for the various State departments to have large research divisions attached to them. There was also this further difficulty that "no national staff however well trained could have that intimate knowledge of other countries which is necessary to distinguish between appearances and reality in cases where discriminating judgement is necessary. No one who had not been bred in its atmosphere, saturated with its history and instinctively inspired by its traditions can really interpret a country's political, economic and industrial happenings with sureness and accuracy. Hence a correct appreciation of international events can only be won by the co-operation of nationals from many countries, checking each other's science, and each contributing his peculiar knowledge. This kind of co-operation has now been tested at the I. L. O. during the last ten years." It is unnecessary for our purposes to go into the methods which the I. L. O. has devised for promoting international team

work in the collection and sifting of economic data. It would, however, be interesting to you to learn that, realising the importance of this kind of research work and the necessity for having reliable information on international developments open and easily available to all the countries of the world, the older school of diplomacy has granted a concession to the I. L. O. enabling it to enter into direct communication with any parties in a particular country whose assistance it may require in the performance of this duty, without having to go through the usual formal channels of communication. The early objections that were raised to this procedure have now completely died down with a more general understanding of the work of the Office and the services it can render. Both Government departments and private organisations and even individuals now realise that they can secure information from the Office which they cannot readily obtain elsewhere, and they are therefore ready to reply to enquiries which they may receive in their turn.

Apart from the information which more or less automatically finds its way to the Office library in printed form—the number of volumes, brochures and serial publications in the I. L. O. library by the end of 1929 was already 34,484—Geneva has on its files exhaustive lists of organisations and individuals who are likely to be able to supply information on various questions and whose co-operation it does not hesitate to seek if required. It has also on numerous occasions sent out its own officials to make special inquiries on the spot; as, for instance, in 1920 when it sent out one of its officials to report on production and labour in the mining industry in the Ruhr area. An even more important enquiry was

the one it undertook into the working of the Compulsory Labour Act in Bulgaria at about the same time. But the most important effort of this kind was the monumental Enquiry into Production which was undertaken by the Office as a result of a decision taken by the Governing Body in June 1920. For the purpose of collecting the information required, questionnaires were issued in no fewer than sixteen languages and widely distributed to Governments, Workers' and Employers' Organisations and co-operative Bodies. A member of the Office Staff toured thirteen European countries to collect material, and the work of collating and translating the information thus obtained was naturally colossal. For the purposes of this kind of research work, the Office has recruited a staff of experts drawn from thirty-six different nations and from all kinds of occupations. There are professors and civil servants, factory inspectors and trade unionists, doctors and engineers, and even a few lawyers, all of whom have been selected for their aptitude for some special task. In order to ensure regular and methodical contact between the Office and men of scientific competence or practical experience throughout the world on various labour and industrial questions, a considerable number of international technical committees have been set up; examples of these are the Joint Maritime Commission, the Correspondence Committee on Social Insurance, the Permanent Emigration Committee and the Committee on Native Labour. The Labour Office has thus devised an inexpensive method for "picking the brains" of the leading experts of the world on industrial and labour questions and ensuring their co-operation with its own research work.

One of the lines of work to which the Office has devoted special attention is the preparation of statistical reports. So diverse are the principles on which statistics are collected and tabulated that it was one of Giffen's precepts to enquire how any given set of figures was obtained before drawing any conclusion from it; and the differences between country and country in this respect are even wider. The I. L. O. has repeatedly emphasised the necessity of adopting uniform principles in the preparation of labour statistics so as to help comparison between one country and another. Various conferences of labour statisticians have already been held under its auspices, and it is expected that standard methods for compiling statistics on labour problems will gradually be adopted by the various member States.

So much about the collection of information; we shall now consider how it is being (utilised.) Apart from the information which is being directly used in the Office both for the compilation of the reports bearing on the subjects which figure on the agenda of any conference and the numerous scientific publications which it issues from time to time, the material on economic and social problems which is rapidly accumulating at Geneva goes out to enrich the world in a thousand different channels. As early as 1920, immediately after the Office came into being, large numbers of requests for information began to pour into the Office. The stream has since steadily grown and the number of such requests received in 1928 reached the phenomenal figure of 1100. Governments and national administrative services, politicians and members of parliament, employers', workers' and co-operative organisations, institutions of other kinds and private

individuals have all gone to swell the number of enquirers, and the information sought for had to be garnered from an extremely wide field. It is a promising sign that the majority of the enquiries dealt with conditions of work, social insurance, social hygiene, and unemployment, indicating thereby that these are the problems on which public opinion is concentrating itself at the present time. Enquiries from Governments are steadily increasing, and in many instances the Office has been called upon to draft labour codes for countries the industrial legislation of which had not till then been brought up to date. It is naturally from the members of the Organisation, and more particularly from its European section, that many of these enquiries originate; but non-European countries and non-member States have not been slow to make use of the Office in this direction. The United States of America have been a prolific enquirer; and President Hoover's request for material for the use of the United States Coal Commission and Mr. Henry Ford's request for a study on real wages in various European centres may be cited as cases which called for very elaborate investigation. Nor has Soviet Russia been behindhand; in 1928 we see her seeking the co-operation of the Office to obtain information on invalidity, old age and life insurance laws and institutions throughout the world. Among Asiatic countries Japan, India and China have profited by the research work of the Office; "the Bombay Labour Office has frequently turned to Geneva for information on various subjects, from the methods of providing conciliation and arbitration machinery in case of labour disputes, down to the qualities desirable in the local correspondents of a Labour Office." The vast store of material collected



by the Office on conditions of labour in India was placed at the disposal of the Whitley Commission, to which the Office also sent a comprehensive memorandum on social insurance. Besides, various employers' and workers' organisations in India are increasingly resorting to the Office or to its branch at New Delhi for help in their special problems, and many are the letters received from leading industrialists and trade unionists in the country testifying to the value of the help the I. L. O. has been able to render them. Further testimony to the value of the scientific work done by the Office is afforded by the National Industrial Conference Board of the United States of America, which in the course of one of its publications says as follows. "Prior to the organisation of the I. L. O., there was no medium through which interested persons and organisations could keep in close touch with the developments of labour legislation, and the changes in the broader field of employment—relationships. The special investigations of the Office have assembled information which would not otherwise be available.....As a fact-finding and research agency the I. L. O. has functioned as satisfactorily as the breadth of its field of investigation in comparison with its resources permits." If it is true, as Plato has said, that the man who most benefits the world is he who makes men acquainted with one another, then it may truly be added that the organisation which most benefits the world is that which lets countries know of the endeavours and of the successes of others.

Turning now to the legislative activity of the I. L. O., we find that in the thirteen conferences held from 1919 to 1929 no less than twentyeight Draft Conventions and

thirtyfour Recommendations have been adopted, and that a great many of them have already found their way to the Statute Books of the various Member States. Labour problems on which the Conference has taken legislative decision may be divided into three main categories: (first) problems affecting industry and commerce; (second) problems relating to migration and maritime work; and (lastly) problems dealing with agriculture. (Of these, the most important group is certainly the first; and the proposals of the Conference under this head deal with uniform standards of working hours, the employment of women after child-birth; minimum age of children for industrial employment; night work of women and young persons; workmen's compensation; weekly rest in commercial establishments; developments and facilities for the utilisation of workers' spare time; general principles of sickness insurance and other matters affecting the welfare of labour.) Under the (second) head, the conference has made definite proposals for the protection of seamen against unemployment caused by the loss or foundering of the ship; for regulation of child labour on board ship; for medical examination of children and young persons employed at sea; for the limitation of hours of work in the fishing industry and in inland navigation; and the simplification of inspection of emigrants on board ship. As regards regulation of labour conditions in agriculture, the effort of the Conference has chiefly been to secure for the agricultural worker the same rights and protection as have been accorded to workers in other industries.

It may perhaps be possible for us later, if time permits, to examine in detail the provisions of one of the more important Conventions in order to throw light on

the standards which the I. L. O. seeks to establish and the difficulties it has to meet in this endeavour to bring about uniformity; for the time being, however, we shall try to evaluate the importance of the legislative work of Geneva by the simple test of the number of countries which have agreed to abide by the Geneva labour prescriptions. I have already mentioned that at the beginning of 1930 we had 28, or, including the Berne Convention on White Phosphorus which was upheld by the I. L. O. in 1919, 29 Draft Conventions. If every one of the 55 Members States had ratified all these Conventions we would have a total of 1595 ratifications. The number of ratifications registered with the League of Nations by the end of July 1929 was 390; the number of ratifications registered or authorised was 419; the number of ratifications recommended to parliaments by the governments was 127; making a total of 546 cases of government action. On the basis of these figures, Senator Arthur Fontaine, the first President of the Governing Body, has arrived at some very interesting percentages. Of the three figures 390, 419 and 546, the most significant is that for ratifications registered or authorised — 419; the proportions of each to the theoretical possibilities of ratifications are 24, 26 and 34 per cent, but these gross figures do not give a correct view of the situation. The Conventions of 1927, 1928 and 1929 must be left out, since there has not yet been time for many ratifications of these to be received. On this new basis the total number of possible ratifications is reduced to 1320; ratifications registered, 378; registered or authorised, 406; registered, authorised or recommended, 529. The proportions then would be 29, 31 and 40 per cent. The

gross figure for ratifications also may, therefore, be said to be 31 per cent. A still further discrimination is necessary, for, it will be found that the number of States Members which have not ratified any Convention since 1920, or merely the Berne Convention on White Phosphorus, is 23, thus leaving 32 States which have actually collaborated in the work of the I. L. O. The others, which have been included because they are the members of the League of Nations but which have little interest in the regulation of working conditions because they are not highly industrialised, have to be left out in making a computation of this kind. Confining our attention then to these 32 countries which are directly interested in the work of the I. L. O., the figure for possible ratification is 768, and the results for the three classes are 376, 404 and 476, giving a proportion of ratification of 49 per cent., 51 per cent., and 62 per cent. for the three categories. These percentages are by themselves very encouraging, and further examination shows that the Conventions which have received more than half the number of ratifications in the 32 States which have ratified are: unemployment (23); night work of women (19); age of admission to industrial employment (18); night work for children (21); white phosphorus 26, (not counting China and New Zealand, which will bring the total to 28); age of admission to agricultural work (22); prohibition of the use of white lead (18); weekly rest in industry (17); minimum age for admission to employment as stokers (21); medical inspection of young persons on board ship (21); and equality of treatment for national and foreign workers as regards workmen's compensation for accidents (24).

Let us now consider to what extent India has been



affected by the decisions of the Conference. Up to February 1930, India has ratified, in addition to the Berne Convention on White Phosphorus the following eleven Conventions:—Convention limiting hours of work in industrial undertakings (1919); Convention concerning unemployment (1919); Convention concerning employment of women during the night (1919); Convention concerning the night work of young persons (1919); Convention concerning the rights of association and combination of agricultural workers (1921); Convention concerning the application of the weekly rest period in industrial undertakings (1921); Convention fixing the minimum age for the admission of young persons to employment as trimmers and stokers (1921); Convention concerning the compulsory medical examination of children and young persons employed at sea (1921); Convention concerning workmen's compensation for occupational diseases (1925); Convention concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents (1925); and the Convention concerning the simplification of the inspection of emigrants on board ship (1926). In a large number of cases where India has not found it possible to register formal ratifications with the Secretary General of the League of Nations in token of her unreserved adoption of the Geneva proposals, action has been or is being taken in the spirit of the Convention. A list of such unratified Conventions which have led to legislative or other action of some kind to introduce improvements in existing conditions will include the Conventions on the employment of women before and after childbirth (1919); on the minimum age for admission of children to industrial employment (1919); on the mini-

imum age for admission of children to employment at sea (1920); on unemployment indemnity in case of loss or foundering of the ship (1920); on facilities for finding employment for seamen (1920); on white lead in painting (1921); on workmen's compensation for accidents (1925); on seamen's articles of agreement (1926); and on repatriation of seamen (1926).

To fully appreciate the influence exerted by Geneva in accelerating the pace of labour legislation in this country, it is necessary to have an idea of the stage of legislative protection that labour had reached before India became a member of the I.L.O., and to work out in some detail the developments that have subsequently taken place. It will not be wrong to say that till the outbreak of the Great War, it was the old doctrine of laissez-faire which dominated the policy of the Government as regards all labour matters. As regards industry, the insistent claims put forth by Indian industrialists had slowly brought about a change of attitude. But labour was yet unorganised, and no attempts had been made to instil into the workers a consciousness of the important place they occupied in the national economy. So little, indeed, were the rights of labour to be treated as an economic entity by itself recognised by the public at large that it went unrepresented not only in the official legislative councils but also in the Indian National Congress, the strongest non-government representative institution in the country, and in its constituent bodies in the provinces. Labour's own ineffectiveness to evolve methods of public expression, combined with the general indifference of the public and the active disapproval of the employing classes, conspired together to retard the

process of social amelioration by legislation. In fact, so great was the influence of the Indian industrialist class, which alone was then articulate and assertive, that the earlier attempts at labour legislation were designed to protect employers against labour rather than to protect labour against employers. Thus the Planters' Acts in Assam and Madras, the Workmen's Breach of Contract Act of 1859, and the Employers' and Workmen's (Disputes) Act of 1860 had as their main purpose the ensurance of a continuous and docile supply of labour by rendering the workmen liable to criminal penalties for breaches of contract. The Indian Penal Code of 1860 also contained provisions of a similar nature. By the eighties of the last century, however, a new spirit became manifest in labour legislation. The gross abuses which the unregulated employment of children led to had compelled the Government to introduce Act XV of 1881, by which children between seven and twelve were to work only nine hours a day and to have four holidays in the month. The Indian capitalist who had been pressing for direct government assistance to stimulate industrial development and in other ways to advance his own interest forgot that he was illogical when he resented this attempt of the government to offer a certain amount of protection to that class of workers which most deserved it; the Bengal Chamber of Commerce condemned the Act as unnecessary, nor did it evoke much enthusiasm in other quarters. In spite of all this, what Miss Margaret Bondfield calls "the sanitary cordon" was further extended in 1891 when Act XI of that year limited the work of women to eleven hours and that of children to seven and protected both classes against

night work. So much were the provisions of this Act in advance of "public opinion" at that time that the hope was expressed that it "will be accepted here and at home not as a mere prelude to still further restrictions, but as a settlement as final as any settlement of such a question can be." Lord Landsdowne's hopes, unfortunately, were not destined to be fulfilled, for the conditions of industry underwent rapid alterations since 1891 and the introduction of electric light, which made it possible for machinery to be worked longer hours, and the dearth of labour caused by the plague, introduced new problems which had to be considered. There was at this time no legal limitation of the working hours of adult males and as a result the majority of the operatives of the Bombay mills were worked the unconscionable period of between 14 and 15 hours a day. Two Commissions of Enquiry, one of which was the Factory Commission of 1908, which made a thorough investigation of conditions and hours of work, came to the conclusion that "unduly long hours were undoubtedly being worked in the mills, and that the practice, if generally adopted and persisted in for any length of time, would certainly result in the physical deterioration of the operatives." They also discovered that evasions of law in regard to women and children were too frequent to be overlooked. In its report, therefore, the Royal Commission of 1908 made some recommendations which were deemed very advanced for that time, but the Government went one better than the majority of the Commissioners, and acting on the dissenting minute of Dr. T. M. Nair, who advocated limitation of the working hours of adult males, introduced in the Factory Act of 1911 provisions limiting adult male labour



to 12 hours a day. The proposals for a compulsory interval after 6 hours' continuous work and for reducing children's working hours from 7 to 6 in textile factories were also embodied in the new Act. Apart from these factory laws and a few other legislative efforts such as the Workmen's Breach of Contract Act, and the Planters' Act, etc., labour received scarcely any notice from the government before the War. On the rare occasions when labour measures were brought forward, the proposals for action evoked such vehement opposition from the industrialists and so little support from other sections of the community that the official element was always left in doubt as to the wisdom of its action. It was in this atmosphere of general indifference to labour interests on the part of the public and active opposition from the employers whenever the State contemplated measures of reform that the War caught India. Towards the close of the War there was substantial and continuous rise in prices and though wages also rose, the rise was not always proportionate and left a lag to be caught up, with the result that the worker found his real income diminished. On the other hand, this was the time when, owing to the fabulous dividends being paid by the leading industries, there was a wide expansion of industrial development of all kinds. The sense of bitterness caused by the only too obvious disparity in the distribution of the fruits of labour, coupled with the intoxication of the new ideas brought out by the ferment of the War served to awaken labour from its passivity. During 1919—1921, strikes became the order of the day; a demand for increase of wages was the most frequent cause of these strikes; but it is significant that there were also general

demands for better conditions of work. For example, in several important centres the strikers put forward demands for and succeeded in obtaining a 60-hour week.

It was under these conditions that India became a member of the I. L. O., and one cannot help commenting on the remarkable change which has since taken place in the country's attitude towards labour and labour questions. The history of the decade that has followed India's entry into the I. L. O. shows that the hostility of the employing classes to labour has been tempered down to a considerable extent, largely as a result of the new sense of human values which Part XIII of the Treaty has done so much to inculcate; that the lukewarmness of the press and the public has been converted into active support of labour claims; that the indifference of the government has given place to active sympathy finding tangible expression in a series of beneficent labour laws; and that, most remarkable of all, labour itself has been galvanised into life and awakened to a full consciousness of its rightful place in the economic life of the country. It is not extravagant to claim that, in the bringing about of these happy results, our association with Geneva has played a leading part; the claim has been advanced on behalf of Geneva by no less a friend of India than Mr. C. F. Andrews. In the course of a series of articles which he contributed to the *Hindu of Madras* in 1928, he says: "If advantage is taken of the world position of immense importance which the I. L. O. has, there can be no doubt whatever that labour conditions in India will be improved in the most rapid manner possible. I have said more than once in public, and I would again repeat the fact, that the amelioration of labour conditions in India by

direct legislation has gone forward more quickly in the last ten years since the I. L. O. was established than was possible in the fifty years before the establishment of the I. L. O. Every one of the great land-marks in Indian labour legislation has been put up since the establishment of the I. L. O. While up to the year 1919 it seemed quite impossible to obtain any more humane conditions with regard to labour in mines, factories and mills, after 1919 every door seemed to be suddenly thrown wide open, and we have been pressing forward from one act of factory legislation to another, and all these have been on the whole in the right direction."

It will, I think, be generally agreed that the preponderating influence in inspiring the new social policy of India was that of the I. L. O. but it may be suggested that there have been two other agencies which also have been working in the same direction. It has already been mentioned that the years 1918-1921 may be regarded as the starting point of the modern trade union movement in India. It was in 1918 that the Indian Seamen's Union of Calcutta was reorganised and the Madras Labour Union, the Clerks' Union of Bombay, the Bombay Presidency Postmen's Union, the Calcutta Port Trust Employees' Association and the Asiatic Saloon Crews' Union of Bombay were founded. The list for 1919 is no less imposing. It includes three employees' associations in Calcutta, the three big railway unions on the N. W., G. I. P., and M. & S. M. railways, as also the Punjab Press Association and the Mechanical Workers' Union. In 1920 were founded the Jamshedpur Labour Association, the Ahmedabad Workers' Union, the Indian Colliery Employees' Association of Jharia, the B. N. Rail-

way Indian Labour Union, the All-India Postal and R.M.S. Union, the Burma Labour Association, the Imperial Bank of India Indian Staff Association, the Bengal Ministerial Officers' Association, the Howrah Labour Union, the Oriya Labour Union, the B. & N. W. Railway-men's Association, the B. B. & C. I. Railway Employees' Union, the E. B. Railway Indian Employees' Association, the Bombay Port Trust Employees' Union, the Bengali Mariners' Union, the Ahmedabad Weavers' Union, and the Oudh and Rohilkund Railway Employees' Union. These names are illustrative and not comprehensive; for a great many other unions also sprang up in different parts of the country most of which have since died a natural death while the others have grown to strength and influence. The part that the I. L. O. has played in the encouragement of Indian trade unionism will have to be examined later on in the course of these lectures; for the moment it will suffice to remark that the rapid creation of so many labour associations furnished labour with the means to make itself heard by the general public of the country and thus incidentally to win more sympathetic attention to the demands for social reform.

Coupled with the vigorous manifestation of the trade union spirit was another agency which was to have an even more direct effect on the course of legislation. India's membership of the I. L. O. synchronised with the inauguration of certain constitutional reforms which assigned to labour a clear, if not as yet a very important, place in the body politic. The Montagu-Chelmsford Report was too much obsessed with political and communal considerations to pay much heed to labour; never-

theless it was only with the Montagu Reforms that labour obtained the representation, however limited in character it may be, that it now enjoys in the legislative councils and in the Assembly. Even now it is not in all the legislatures set up under the Government of India Act of 1919 that labour representatives sit. According to the earlier arrangement, a total of six nominated seats was assigned to labour in all the provincial legislatures taken together. Later on the number of seats was raised to ten, but the method of nomination was still adhered to. According to this scheme, labour gets three nominated seats in Bombay, two in Bengal, and one each in the Punjab, Bihar and Orissa, Burma, Central Provinces and Assam. In the Central Legislature no provision is made for labour representation, but it has invariably been the practice for the Viceroy to give one of the nominated seats to an acknowledged labour leader. It is, of course, obvious that the organisation of labour into cohesive units and the bestowal of political recognition have contributed to enrich the social legislation of the last decade; but, making due allowance for these factors, it has still to be conceded that India's participation in the Geneva Conferences has been the largest single factor which has determined the course of Indian social legislation.

We shall now consider the result of the legislative activity of both the central legislature and the provincial legislatures after the coming into force of the Montagu-Chelmsford Reforms. These include (1) the wholesale revision of the Factories Act in 1922 with subsequent further amending Acts; (2) an Act regulating child labour in ports passed in 1922; (3) a new Mines Act passed in

1923 with an amending Act relating to shifts passed in 1928; (4) the Workmen's Compensation Act of 1923 with two amending Acts passed in 1926 and 1929 respectively; (5) an Act of 1925 repealing the Workmen's Breach of Contract Act and provisions of a similar kind in the Penal Code; (6) the Trade Unions Act of 1926 with a minor amending Act which was passed in 1928; (7) Act XXVII of 1927, amending the Indian Emigration Act of 1922; (8) the Trade Disputes Act of 1929, and (9) the Act of 1930 amending the Indian Railways Act of 1890. To these may be added the Coorg Act of 1926 which gives an extension of 5 years to the system of criminal punishment of breaches of contract by the workmen; the Madras Act of 1927 repealing the older Madras Planters' Act which provided for penal sanctions to workers' breach of contract; and the two Maternity Benefits Acts adopted by Bombay in 1929 and by the Central Provinces in 1930. It is necessary for our purposes to compare the provisions of these Acts with those of the International Labour Conventions which India has ratified, and to endeavour to find out in what degree such legislation has been affected by Geneva. In so doing I shall not follow any rigid method of enquiry and try to establish strict parallelisms, but shall take the Conventions ratified by India in their order and see how their prescriptions have been adopted in the various measures passed by the Indian Parliament. It may thus be possible for us at the same time to obtain a general idea of the present state of labour protection in India.

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And first of all let us take the Hours Convention. India was not called upon at Washington to establish immediately an 8-hour day or a 48-hour week, but on

account of the lateness of her industrial development and the social customs of her workers, she was asked to adopt the principle of a 60-hour week in factories, mines and in such branches of railway work as may be specified for this purpose by the Indian legislature. While making these concessions to India on the score of her industrial backwardness, the Conference reserved to itself the right to consider at a future session further provisions limiting hours of work in India. [The fact that India was accorded an exceptional regime under the Draft Convention has been regarded in certain quarters as a proof of the inefficacy, not to say the uselessness, of international conventions. It has been argued that while Western European States are limiting the working day to 8 hours, India with her enormous resources of labour will have the benefit of a 10-hour day. The reduction in hours of work adopted by the Indian government is, nevertheless, one of the most important advances secured during the last few years for, though on account of special industrial conditions, popular traditions, and other peculiar circumstances, the working day has had to be fixed at 10 hours, this reform constitutes an unquestionable advantage over the 11 or 12 hours regime which existed previously. At the time of the Washington Hours Convention the only Act governing hours of work in India was the Factories Act of 1911, and this left ample scope for improving the law on the subject. The Factories Act of 1911 was only applicable to factories using power and employing more than forty-nine persons, though in certain circumstances it could be extended to factories employing twenty persons. Women were prohibited from working for more than eleven-hours a

day, while the corresponding limitation for adult male textile workers (not for all adult male workers) was 12 hours a day. Children between the ages of nine and twelve might be employed for seven hours in any factory except textile factories, where their hours were limited to six. The conditions of work in Indian mines which were regulated by the Indian Mines Act of 1901 were even worse, as it contained no provisions for regulating hours of work. To Indian workers groaning under these long hours of work, the Washington Hours Convention, even with its limited application to India, came as a god-send.

The Amended Indian Factories Act of 1922, which sought to give effect to the Washington decisions, marked a considerable advance in all directions. It prescribed a daily as well as weekly limit to hours of work in factories and provided for rest intervals and for a weekly holiday. The hours of work of adults in factories are limited to eleven in any one day and to sixty in any one week. Section 21 of the Act provides for a rest period of at least one hour at intervals not exceeding six hours, or, at the request of the employees concerned, of two rest periods of half an hour each, at intervals not exceeding five hours. Section 22 of the Act provides for a weekly holiday on Sundays or on any other day of the week, provided that no person is allowed to work continuously for more than 10 days without a holiday for a whole day. For children the daily hours are limited to six, and a rest period of half an hour is obligatory if their daily hours of work exceed five and a half hours. The rest period, where necessary, must be so fixed that no child is required to work continuously for more than



4 hours. The Act further prohibits the employment of women and children for a period of 10<sup>1</sup>/<sub>2</sub> hours during the night. No child can be employed in more than one factory on the same day, but adults may be so employed in such circumstances as may be prescribed by the Local Government. In order to maintain a check over hours of work, etc., the Act provides that the manager of a factory shall fix specified hours for the employment of each person employed in his factory and that no person shall be employed except during such hours. A register has also to be maintained of all persons employed in a factory in the form prescribed by the Local Government showing their hours of work and the nature of their respective employment. The Local Government can exempt, by notification, any factory or class of factories from this requirement of the law in the case of adults only, if it is satisfied that no contravention of the provisions of the Act regarding hours of employment and holidays is possible. From 1919 to 1929 the number of factories subject to the Factories Act went up from 3304 to 8129 and the total average daily number of the factory population in the latter year was over 1.5 millions. These figures give an idea of the masses affected by the infiltration of the Washington principles to India through the 1922 Act. Besides, it is interesting to note that the reform as to the shortening of the working period is in many cases marching ahead of the law. Thus in 1929, the normal weekly hours for men were not above 48 in 2164 factories; were above 48 but not above 54 in 1008 factories, and were above 54 in 4791 factories. The normal weekly hours for women during the same year were not above 48 in 1723 factories; were

above 48 but not above 54 in 658 factories; and were above 54 in 3067 factories. The number of factories where children were worked for 30 hours or less a week was 452, and that of factories where they worked more than 30 hours a week was 862. In the same year, again, in no less than 3764 out of a total of 8129 factories in British India, holidays were granted on weekdays and Sundays, while in 2310 factories the operatives had only their Sunday holiday. The number of factories in which a rest period of one full hour was granted on each working day was 5724.

The first attempt to regulate the hours of work in Indian mines was made in 1923, as a result of the Hours Convention. The Mines Act of 1923 provides that no person shall be employed in a mine for more than 60 hours in any one week if he works above ground, or for more than 54 hours in any week if he works below ground. The Act also provides for a weekly holiday but does not specify any particular day for the purpose. In every mine a register has to be maintained of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments. This Act did not impose any daily limit on the hours during which any person may be employed in a mine, but an Amending Act of 1928, by compelling mine owners who keep their mines open for work for more than 12 hours a day to distribute their workers into non-over-lapping shifts not exceeding 12 hours each, prevents miners underground from working on an average more than 9 hours a day. Administrative Rules and Regulations have also been issued which will pro-

gressively eliminate women from underground work by April 1939.

The extent to which the Hours and Weekly Rest Conventions have been applied to Indian railway workers has to be studied separately Persons employed in railway workshops and collieries have already been brought under the Conventions by the Indian Factories Act of 1922 and the Indian Mines Act of 1923. With regard to other kinds of railway employees, efforts had, in the first stage, been directed towards the application of the principles of the Conventions by executive orders from the Government to the state-managed railway administrations and by invitations to the company-managed administrations. As the result of pressure exerted by railway workers through their trade union organisations, the Government of India was induced to institute measures for giving further effect to the statutory obligations incurred by the ratification of the Conventions, and steps were taken to create a "competent authority" whose duty it would be to specify the branches of railway workers who are to come under the operation of the Convention. A Bill further to amend the Indian Railway Act of 1890 for this purpose was passed by the Indian Legislature in 1930.\* The new enactment extends the application of the Hours and the Weekly Rest Day Conventions to further categories of railway workers; it limits the hours of work in the case of railway servants whose work is essentially intermittent to 84 in the week, and in the case of other railway servants, with certain exceptions, to 60 hours in the week; and the general provision regarding the weekly day of rest also is embodied in it. Under

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\* Act No. XIV of 1930.

the rule-making powers vested in the Governor General in Council, the following categories of railway workers have been excluded from the operation of the two Conventions:—running staff, *viz*, drivers, shunters, firemen, guards and other staff who habitually work on running trains. The work of *chowkidars*, watermen and gate-keepers is held to be essentially intermittent and of a specially light character.

Draft Convention concerning unemployment.— This Convention was ratified by India in 1921, but no new legislation was passed by India as, after taking the opinion of the Provincial Governments, it was felt that the Provincial Famine Codes which regulate the provision of relief for workers unemployed by reason of famine or scarcity were sufficient to meet the country's needs in this respect. "To avoid misunderstanding", the Government of India made the following points clear in a despatch which accompanied India's ratification of the Convention. The Draft Convention required that all available information regarding unemployment should be regularly communicated to the International Labour Office and that free public employment agencies with representatives of employers and workers to advise regarding their operation should be created/ Regarding these demands the Government of India pointed out that, in the existing unorganised state of Indian labour, it would be impossible to furnish returns of the kind expected in western countries where labour is fully organised, and that the creation of free employment agencies was thought unnecessary since the demand for industrial labour has for long exceeded the supply and as the unemployment of agricultural labour was unknown in ordinary seasons.

On occasions when serious injury is caused to agriculture by seasonal calamities, Government, in addition to providing information on openings for employment, also provided actual employment and other suitable relief for those who needed it. Government thought that its Famine Code was an efficient instrument for the economic handling of famines and of unemployment on a scale for which few western countries could show a parallel. The Famine Code, the Government of India added, deals not only with the agricultural labourer, but also with the village artisans and small cultivators who are helped by loans.

Indian Labour is not quite satisfied with the Government of India's explanation for not taking action under the Convention, and the non-establishment of a system of employment exchanges in India was the subject of observations by the Geneva Committee of Experts in 1927, and by the Labour Conference Committee on Art. 408 of the Treaty, in 1929. To the latter Committee, the Government volunteered the information that it was undertaking a second enquiry into the matter, and that the view of the Provincial Governments would be considered by the Government of India in the next Report. Since then the Whitley Commission on Labour has been appointed, and further action has been deferred till it submits its recommendations. Whatever may be the findings of the Whitley Commission on this question, it is obvious that the Government of India, having ratified the Convention, is both legally and morally bound to implement it by suitable national legislation.

*Draft Convention concerning the employment of women during the night:—* This Convention was ratified

by India in 1921, and the necessary legislative alternations were made by the 1922 Amendments to the Indian Factories Act. According to Article 5 of the Convention which provides for certain exceptions in the case of India, the provisions of the Convention are applicable only to factories as defined in the Indian Factories Act. An important change that the revision of 1922 made in regard to the employment of women was the repeal of the provision of the 1911 Factories Act which permitted the employment of women in ginning factories at night. According to the Amended Factories Act of 1922, the normal night-period during which the employment of women is prohibited is the period between 7 p. m. and 5-30 a. m.; but local governments are empowered to substitute any one of the following sets of hours as may be deemed suitable: 6-30 p. m. and 5 a. m.; 7-30 p. m. and 6 a. m.; 8 p. m. and 6-30 a. m.; 8-30 p. m. and 7 a. m. The Act provides that no women may be employed more than eleven hours per day. Article 7 of the Convention provides for a shorter period of night-rest in countries where the climate renders work by day particularly trying to health, but Article 7 has not been formally applied to India and the Government of India were under the impression that in practice a rest period of full eleven hours, as required by the Convention, was being secured for women operatives. Recently, however, it has come to their notice that this is not so in some of the jute mills of Bengal, and the local government has intervened in the interests of the women workers concerned, on the ground that the compensatory rest period during the day enjoined by the Convention was not being given in the mills. The Government of India, in their Report to

Geneva for 1929, state that their attention has been drawn to the fact that the present provisions in force in the country are not necessarily sufficient to ensure to women workers in factories a night rest of eleven consecutive hours as laid down by Article 2 of the Convention, and that they will consider the lines on which the existing law in this respect should be amended when the Indian Factories Act is next revised. Since Geneva is bound to make constant enquiries as to when the Indian law will be brought in conformity with the Convention, this revision is not likely to be long delayed.

*Draft Convention regarding the night work of young persons in industry:*—The Convention was ratified by India in 1921 and was brought into operation by the amended Factories Act of 1922. Article 2 of the Convention declares that young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed, except in certain specified cases. Article 6 of the Convention limits its application in India to "factories" as defined in the Indian Factories Act, and adds that Article 2 shall not apply to male young persons over fourteen years of age. The Factories Act of 1922 prohibits the employment of children (*i. e.* persons between the ages of 12 and 15) in any factories before 5-30 a. m. in the morning or after 7 o'clock in the evening. It raised the minimum age of children from 9 to 12 and the maximum age from 14 to 15. No child can be employed in a factory unless he is in possession of a certificate granted by a certifying surgeon showing that he is not less than 12 years of age and is fit for employment in a

factory. The exemption gained for children from work during a period of ten and a half hours during the night, as enjoined by the Convention, and the clause limiting the hours of work to six hours in any one day for children have saved child labour from the worst evils of industrialism.) The extent of the protection has been considerably widened owing to the generous manner in which Provincial Governments have employed the powers given to them under Section 2 (3) (b) of the Indian Factories Act, the main object of which was to protect children even in small factories which, but for the Local Governments' notifications under the clause above, would have remained outside the scope of the Act. A glaring instance of the way in which these small unregulated concerns exploit child-labour may even now be seen in the Amritsar carpet factories, conditions in which were recently brought to light when the Whitley Commission visited that centre. Even in the larger factories, the clause prohibiting the employment of persons under 15 years of age before 5.30 a. m. and after 7 p. m. does not expressly secure for them a night-rest of 11 consecutive hours (the period actually covered is only  $10\frac{1}{2}$  hours), and to that extent the Indian law is still at variance with the Convention. But the Government of India is satisfied that the above provision combined with the provision in Section 23 (c) of the new Factories Act that no child could be employed for more than 6 hours a day, ensures in practice a night-rest of 11 consecutive hours. At the insistence of the Geneva Committee on Article 408 of the Treaty, however, the Government have promised to consider the desirability of expressly securing a night-rest of 11 consecutive hours when the Act is next revised.



*Draft Convention concerning the rights of association and combination of agricultural workers:*—India's ratification of this Convention was registered with the League of Nations Secretariat on the 11th May 1923, but it involved no legislative action on the part of the Government of India, since in this country persons engaged in agriculture enjoyed the same rights of association and combination as other categories of workers, and there is no provision restricting these rights in the case of those engaged in agriculture. The Indian Trade Unions Act of 1926 involves no departure from the principle of the Convention; an examination of the Act shows that it provides that a trade union making the necessary application will be entitled to registration on compliance with certain stated conditions designed to ensure that the union is a bona-fide trade union and adequate safeguards are provided for the rights of its members. The union and its members will thereupon receive protection in certain cases in respect of both civil and criminal liability. No restriction is placed upon the objects which a registered trade union may pursue, but the expenditure of its funds must be limited to specified trade union purposes. Registration under this scheme is optional and not compulsory, and the legal position of trade unions which do not register will be unaffected.

*Draft Convention concerning the application of the weekly rest in industrial undertakings:*—This Convention was ratified by India on the 11th May 1923. As has already been explained when dealing with the application of the Hours Convention to India, the Indian Factories (Amendment) Act, 1922, the Indian Mines Act, 1923, and the Indian Railways (Amendment) Act, 1930, provide

for its application to workers in factories, mines and on railways.

*Draft Convention fixing the minimum age for the admission of young persons to employment as trimmers or stokers:—*This Convention was ratified by India on the 20th November 1922. It stipulated that young persons under the age of 18 shall not be employed as trimmers or stokers, but in the case of vessels engaged in coastal trade the age limit is fixed at 16. The application of the Convention is now being enforced by instructions issued to the shipping officers not to allow young persons to be employed in contravention of the terms of the Convention. The Labour Conference Committee on Article 408 has called attention to the necessity for regularising this procedure by formal legislative measures, and the Government has now stated that it hoped to introduce a Bill amending the Indian Merchant Shipping Act on these lines in the Indian legislature during January—March 1931.\*

*Draft Convention concerning the compulsory medical examination of children and young persons employed at sea:—*This Convention, which was ratified on the 20th November 1922, provides that no child or young person under the age of 18 years shall be employed on any vessel without the production of a medical certificate attesting his fitness for such work. It also provides for the periodical medical examination of young persons employed at sea. It is now being enforced, like the Convention on the minimum age for admission of young persons to employment as trimmers or stokers, by means of executive instructions; and when the Indian Merchant Shipping Act is to be amended next year, suitable provisions will be

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\* Act IX of 1931.

included in it for the enforcement of this Convention as well.

*Draft Convention concerning workmen's compensation for occupational diseases :—*This Convention was ratified by India on the 30th September 1927 and has led to the amendment in 1926 of the Workmen's Compensation Act of 1923. The Act already provided for compensation for such diseases, but the amendment was necessary to make the Act conform to the standards set up by Geneva. By a notification issued by the Governor General in Council, mercurial poisoning also has been added to the list of occupational diseases for which compensation can be claimed.

*Draft Convention concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents :—*This Convention was ratified by India on the 30th September 1927, but as foreign workers in British India are equally eligible with nationals for compensation claims no new legislation was needed.

*Draft Convention concerning the simplification of the inspection of emigrants on board ship :—* This Convention was ratified by India on the 14th January 1928. Soon after the passing of the Convention in 1926 the Government of India submitted to the Indian Legislative Assembly a proposal to amend the Indian Emigration Act of 1922, to bring the Indian law in conformity with the Convention. Section 2 (i) (cc) of the Indian Emigration Act, 1922, as amended by Act XXVII of 1927 defines an emigrant ship as "any ship specially chartered for the conveyance of emigrants, or conveying emigrants exceeding a number prescribed: provided that the Governor General in Council may, by notification in the

Gazette of India, declare that ships conveying emigrants to any specified ports shall not be deemed to be emigrant ships." The 1922 Act lays down that the term "emigrant" means "any person who emigrates or has emigrated or who has been registered as an emigrant under this Act and includes any dependent of any emigrant." It does not, however, include "any person emigrating to a country in which he has resided for not less than 5 years or the wife or the child of such a person, or the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such a person." There is at present no official system in India for the inspection of emigrants during voyage; but the Act of 1922 as amended in 1927 empowers the Governor General in Council to make rules for the appointment of inspectors for this purpose, should circumstances require such action. The new Act lays down in section 4 the special duties of the Protector of Emigrants, which include protection, aid and assistance to all emigrants and the enforcement, so far as he can, of the provisions of the Act and the rules made under it. The Act also empowers the Governor General in Council to appoint agents in foreign countries for the purpose of safeguarding the interests of emigrants. Such agents have been appointed in Ceylon and British Malaya to which countries alone emigration for purposes of unskilled work is at present allowed. These emigrants travel as third class (deck) passengers on the ordinary passenger ships of the British India Steam Navigation Company under the British flag, and not on emigrant ships, specially chartered for the transport of emigrants. These passenger ships are subject to a close system of inspection

at the ports of embarkation and disembarkation which, in view of the short voyages involved to Ceylon and Malaya, meets all practical requirements, rendering it unnecessary to carry out any general inspection of emigrants on board during voyage.

These are the eleven Conventions which, up-to-date have been ratified by India ; but it is understood that the Government of India are in favour of ratifying the Draft Convention concerning seamen's articles of agreement adopted in 1926, as soon as their preparations for the amendment of the present Indian Merchant Shipping Act are completed. Further, this year's summer session of the Central Legislature will be asked to adopt a resolution recommending ratification of the Draft Convention concerning the marking of the weight on heavy packages transported by vessels, which was adopted at Geneva in 1929.\*



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\*. The ratification by India of this Convention was registered on 7 September 1931.

**INDIA AND THE CONVENTIONS—(continued.)**

This evening we shall continue our enquiry into the benefits that have accrued to India as a result of her connection with the International Labour Organisation. We have seen that, out of the eleven Conventions that have been ratified by India, three, namely, those on unemployment, rights of association and combination of agricultural workers, and equal treatment of national and foreign workers as regards workmen's compensation for accidents, necessitated no new legislation; two, namely, those relating to minimum age for admission as trimmers and stokers, and compulsory medical examination of young persons at sea, are being enforced by executive order, and formal legal enactments to implement them are now being framed; while in the other cases new legislation has already been adopted by the Government of India.

But what, it may be asked, about the seventeen Conventions which India has not so far ratified? Do these not represent, at least so far as this country is concerned, so much wasted effort, so many abortive attempts to force the pace of social legislation? The answer is indicated by a host of experiences. In many cases, the adoption of a Convention by the leading countries of the world has been sufficient to effect the reform desired, even though the majority of the Member-States have been compelled for one reason or other to refuse ratification. It is now possible for us to see that, though the Berne Convention on the prohibition of white phosphorus, which was re-issued for ratification by a decision of the Washington Conference, has secured only a total

of 28 ratifications, still, the problem of phosphorus poisoning in the match industry has now been solved for the whole world. Even as regards Conventions which have received far fewer ratifications than the Berne Convention, the progress secured has been considerably beyond the actual number of ratifications. It is thus a mistake to assume that a Convention which has not been ratified by any particular country has had no influence in shaping its own social development or the general trend of social policy throughout the civilised world. If the statistics of ratifications that we considered in the last lecture were the only measure of gauging the impulse for reform given by the International Labour Conferences, one would be justified in regarding the large number of ratifications yet to be made as an indication of the feeble response made by the various national parliaments to Geneva's efforts at social amelioration. There are, however, certain considerations which detract from the value of such a strictly arithmetical calculation. A Convention, we must remember, is almost always based on a large amount of practical experience, or at least on a wave of public opinion which has already spread far beyond the limits of the working class; and in consequence, it tends to form, and rapidly does form, the standard of working conditions. Let us here recall the nature of the machinery that has been devised to bring a Convention into being. Items are placed on the agenda of the Conference because, in the view of important sections of public opinion, they require international examination with a view to the adoption of measures applicable in all countries. The adoption of a Convention requires a two-thirds vote in an assembly consist-

ing of representatives not only of the governments, but also of employers and workers. And once the Convention has been adopted, it is again on public opinion, in the last resort, that it depends to secure the enactment of national legislation by the various national parliaments.

The entire motive power of a Convention thus depends on the support of public opinion; and public opinion has always been effective in securing that a Convention, even if unratified by a large number of States, yet establishes an international standard which even the non-ratifying countries feel themselves obliged to respect. All countries gradually approach this standard, simply as a result of considering it as the normal standard. It is in this sense that figures of ratifications taken by themselves become a false index of the strength of the movement for social reform inaugurated by Geneva. We may take as an example the Washington Hours Convention, which has been rightly regarded as the touch-stone by which the work of the I.L.O. may be tested. Up to February 1930 only fourteen ratifications of this Convention have been registered, of which five are conditional. Great Britain has not yet ratified this Convention, though it is in Great Britain that the 8-hour day has become most firmly rooted. According to the report of the Chief Inspector of Factories, in over 90 per cent. of the industrial establishments of that country, 8 hours or less are now being actually worked; collective agreements of various kinds have fixed the hours of work there at 48 or even less in the week. Again, in 1921, four years before ratifying, Belgium included all the clauses of the Convention in its national legislation; and the 8-hour day is the basis of the present German and



Argentinian Bills on the subject. Other instances of the latent, but definite, effectiveness of this Convention may easily be adduced; but here it will suffice to say that mere figures cannot show that the struggle for ratification for "the 8 hours' civilisation" has enabled more than twenty countries to maintain and even develop the progress achieved in this direction. Nor do they show that it has animated the worker with fresh hope, as is evidenced by the demand for a 44-hour week, which has recently been formulated by the British Trade Union Congress and other responsible national labour organisations. To take another instance, Japan has not ratified the Washington Convention for the abolition of night-work for women, but as a consequence of the Convention and of the debates that have taken place on it at successive sessions of the Conference, she has suppressed night-work for at least three-quarters of her women workers. To quote Monsieur Thomas, "the lively joy which this step caused was freely expressed in the dormitories of the factories, but there is no trace of this in the table of ratifications."

The difficulties in the way of ratification arise from what we may call the rigidity of Conventions. A distinguished jurist has observed that a law, prescribing as it does, a uniform code of conduct, may be broken but cannot be bent. The explanation of this statement is that unless the law is everywhere applied in its integrity, without reservations of any kind, and unless a common interpretation is applied to the various terms employed in it, its cardinal purpose will be defeated. Differences in the application and interpretation of laws, inconvenient as they doubtless are even in the national

sphere, are fraught with even more dangerous and far-reaching consequences in the domain of international relations. The articles of an international Convention are drafted with the intention of securing an equivalent standard everywhere. An International Labour Convention as a whole, and each article of it, is negotiated by the International Labour Conference and is the joint product of its effort. The whole of the Organisation, therefore, is interested in and may be affected by restrictions made in and interpretations given to the instrument which it has created. The intentions of the Conference may be entirely falsified if each country were permitted to interpret and act upon the articles of the Conventions as it deems fit. Article 405 of the Treaty provides that the Conference itself shall consider the modifications required by the special circumstances of any country, and it was undoubtedly the intention of the Treaty that any modifications necessary should be considered by the Conference and inserted by it in the Convention if it thought fit. Moreover, the usual procedure with regard to ratification of a Convention with reservations is dependent upon the acquiescence of the other consenting parties. Reservations in regard to an ordinary Convention are made at the time of the formal exchange of ratifications and it is open to any of the other consenting parties to say at that time whether they accept them. In the case of the Conventions adopted by an International Labour Conference, there is no formal exchange of ratifications and therefore no opportunity for other States to express assent or dissent when the formal communication of ratification is made to the Secretary-General of the League. In the absence, therefore, of machinery for the general

acceptance of reservations once the Session of the Conference is over, it is clear that the procedure if admitted could lead to such a diversity of obligations on the part of the ratifying States as entirely to destroy the results of the negotiations at the Conference. Further, the new procedure in the negotiation of the Labour Conventions initiated by the creation of the International Labour Conference brings into the field of negotiation other interested parties than the governments concerned, namely, representatives of organisations of employers and workers. Since these representatives are parties in the negotiation of the Convention for which the Conference as a whole is responsible, they should also have the opportunity of giving their acquiescence to a reservation. This is difficult save in the case that the Conference itself should deal with the matter as provided in Article 405 of the Treaty, as regards the special modifications required by any particular country. These arguments indicate conclusively that the procedure of ratification with reservations was not contemplated by the authors of the Treaty, nor indeed did they contemplate giving the Member States the right of interpreting the terms of any Convention, since it would have led to the same results as ratification with reservations. It has sometimes been suggested that ratifications would become easier and the universality of the Organisation further assured if, instead of demanding meticulous compliance with the terms of a Convention, the Conference changed its method of legislation and satisfied itself with arriving at agreements *en principe*. The idea seems to have a special fascination for the Continental mind, but the late Mr. Grimshaw has told us how the Continental, and particularly the French, practice of

legislating on the broad principles of a reform, leaving the details to be worked out by the administration, is repugnant to the British mind. The British Parliamentary does not like to entrust to Government departments the task of subordinate legislation, and though modern circumstances have compelled him to do so, he does so with reluctance, and often without a full realisation of the fact. In our country also, the wide rule-making powers which the various legislative enactments confer on the Executive have familiarised us with the idea. In the legislation of a unitary State, there is not much harm done by the adoption of this method of subsidiary legislation, but Federal laws, and even more so, International Conventions cannot resort to this expedient, without sacrificing the very object they seek to achieve—uniformity. The International Labour Organisation, should it ever be compelled by circumstances to adopt this practice, will undoubtedly secure much speedier ratifications; but it will, equally undoubtedly, forfeit its present undisputed position as one of the most potent factors directing and accelerating the pace of international social progress, and come to be regarded as a “pale ineffectual angel” preaching ideals which no one cares to adopt in the realms of practicality.

To illustrate my point that even non-ratified Conventions fulfil a social purpose, let us examine a few of them, and see how they have influenced legislation in our own country. Before doing so, however, let me refer to a class of Conventions which, because of their not having any bearing on the realities of economic life in certain countries, are never likely to be ratified by them. You cannot possibly expect Switzerland or

Austria, completely land-locked as they are, to ratify any of the Maritime Conventions. On a somewhat different plane are the two agricultural Conventions dealing with the age of admission of children and workmen's compensation, in so far as they have any reference to conditions in countries like India. Taking Article I of the former Convention together with the Preamble, it is clear that its purpose is to prevent children under 14 years of age from working in any agricultural undertaking during the hours fixed for compulsory school attendance. But since there is no provision for compulsory education in Indian rural areas, and very little even in urban areas, India had perforce to reject the Convention. The other Convention obliged a Member State "to extend to all agricultural wage-earners its laws and regulations which provide for the compensation of workers for personal injury by accident arising out of or in the course of their employment." This Convention was adopted by the Labour Conference of 1921, and at that time, as you will remember, India had no Workmen's Compensation Act of any kind. It was possible for India then to have ratified this Convention since it placed no liabilities of any kind on her: *ex nihilo nihil fit*. But India's ratification, as Mr. Clow has remarked, would have made it "illegal for her to adopt any proposal for workmen's compensation for the Bombay mill-workers unless she was prepared to do the same for agricultural workers in Orissa." It would have been a striking instance of the better being the enemy of the good, and ratification would have prevented the Government of India from giving us the modest measure of protection enshrined in the Workmen's Compensation

Act of 1923 and its later amendments.

The two agricultural Conventions cited above represent an extreme case of inapplicability, so far as our country is concerned ; but there are a great many other non-ratified Conventions which have led to considerable social improvements, and in some cases brought about even legislative changes. One of the Conventions adopted at Washington dealt with the minimum age of admission of children to industrial employment. The general rule set up by the Convention was that children under 14 years of age should not be employed in any public or private industrial undertaking other than an undertaking in which the members of the same family are employed. But the Commission on the Employment of Children set up by the Conference recommended that the Draft Convention should not apply to India, but that the Government of India should place their proposals regarding minimum age before the next Conference. At the plenary session, however, Miss Margaret Bondfield and Mr. N. M. Joshi opposed this view, with the result that what is now Article 6 of the Draft Convention was adopted as an amendment by 91 votes to 3, the three dissentients being the two Indian Government delegates and the Indian employers' delegate. The plea put forward by the Indian Government delegates was that they had no time to be prepared with proposals regarding the minimum age ; but Miss Bondfield replied that the question was one which had been agitating the public mind for a long time and that the Conference did not think "the Indian Government should be so detached from world discussions as not to be prepared with recommendations on the subject in

1919." According to the amendment, the minimum age for employment of children in India is fixed at 12 years in (a) manufactories working with power and *employing more than ten persons*; (b) mines, quarries, and other works for the extraction of minerals from the earth; and (c) the transport of passengers or goods, or mails, by rail or in the handling of goods at docks, quays, and wharves, but excluding transport by hand. The late Mr. E. S. Montagu explained the position of the Government of India as regards this Convention in his letter of the 12th July 1921 addressed to the Secretary-General of the League of Nations. Mr. Montagu declared that India was prepared to apply the provisions of the Convention to categories (b) and (c) above, but that a difficulty arose in the case of its application to category (a). The Indian Factories Act then in force was the Act of 1911, which extended only to factories using power and employing more than 49 persons, but local governments were empowered to lower the minimum to 20 for particular areas or industries. The Government of India were prepared to amend the Factories Act so as to bring within its operation factories using power employing not less than 20 persons, and they were also prepared to empower local governments to lower the minimum to ten persons in the case of factories in which any appreciable number of children were employed, whether power be used or not. But they were not then in a position to adopt a definition of "factory", which was in consonance with Article 6, category (a) of the Convention, as they realised that, without an efficient inspecting staff, legislation would prove nugatory and it was impossible to provide for the large and sudden in-

crease in the staff that would be required to deal with the numerous small industrial establishments employing 10 persons or more—more especially as no statistics were available regarding the number of such establishments. Mr. Montagu therefore observed that when the new amendments to the Factories Act of 1911 were passed into law, substantial though not exact legislative effect would have been given to the provisions of the Draft Convention. For this reason he asked for permission to ratify the Convention with two reservations ; (1) that the Convention shall not apply to factories employing more than 10 but less than 20 persons unless the local governments so direct ; and (2) that transitional regulations shall be made regarding children between the ages of 9 and 12 already lawfully employed in factories. Mr. Montagu concluded his letter by requesting that, if ratification cannot be coupled with reservations of any kind, the facts of the situation may be published in order that “the other members of the International Labour Organisation may be made aware that India has been compelled to withhold ratification for purely technical reasons”, but that she was nevertheless prepared to give substantial legislative effect to the provisions of Article 6. Thus, although the Draft Convention was not ratified, provisions were included in the Indian Factories Act of 1922 and the Indian Mines Act of 1923 prohibiting the employment of children under the age of 12 in factories and under the age of 13 in mines. It will be remarked that the minimum age for children fixed by the Government of India for admission to the mining industry is even higher than the limit prescribed by the Convention. An amendment was also made in 1922 in the



Indian Ports Act so as to make it obligatory on a local government to make rules prohibiting the employment of children under the age of 12 upon the handling of goods at piers, jetties, landing-places, wharves, quays, docks, warehouses and sheds.

In the same way the Indian legislature at its session held in September 1921 recommended that the Draft Convention fixing the minimum age for admission of children to employment at sea should be ratified subject to the following reservations: (a) that it shall apply only to foreign going ships (irrespective of any tonnage limits) and to home-trade ships of a burden exceeding 300 tons and (b) that nothing in the Draft Convention shall be deemed to interfere with the Indian custom of sending young boys to sea on nominal wages in the charge of their fathers or near relatives. Even though, on account of the reservations, no ratification was possible, the Government of India has been giving effect to it, subject to the reservations of course, by executive order, and legislation on these lines is being contemplated.\* As regards the Draft Convention concerning unemployment indemnity for seamen in the case of the loss or the foundering of the ship, the Indian legislature decided that it should not be ratified, but initiated enquiries as to whether the Indian Merchant Shipping Act should not be amended so as to provide (a) that any Indian seaman whose service is terminated before the period contemplated in his agreement by reason of the wreck or loss of the ship should be entitled to his wages until he is repatriated to the port of his departure from India; and (b) that he should be paid compensation for the loss of his personal

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\* "Act No. IX of 1931."

effects up to the limit of one month's wages. The maritime provinces of Bengal, Bombay, Madras and Burma, consulted on this subject, agreed that something on these lines was needed so as to prevent undue suffering in case of shipwreck; and legislative proposals to bring about these changes are now being considered.\* The 1926 Maritime Conference adopted a Convention concerning seamen's articles of agreement which was considered by the Indian legislature in September 1927; but a decision regarding ratification was deferred to a later date when the amendments necessary to bring the existing law into conformity with the Draft Convention will have been further examined in consultation with the parties interested. Commercial bodies and shipping interests in India have been consulted, and after giving careful consideration to the opinions expressed by the various authorities whose views were called for, the Government of India, it is now understood, propose to ratify the Convention. The existing law and procedure cover most of the essentials of the Convention; and in certain respects in which they are not so covered, India has taken executive action or action under the existing law. Legislation is however necessary to give effect to Article 14, which requires that the seaman shall have the right to be given a separate certificate as to the quality of his work in addition to the document required under Article 5. Section 43 of the Indian Merchant Shipping Act of 1923 provides for a Certificate of discharge corresponding to that of Article 5, but there is no provision in that Act whereby a seaman is entitled to receive a separate certificate as to the quality of his work. On this point also

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\* "Act No. IX of 1931."

the Government are contemplating legislative proposals. Another maritime Convention on which action has been taken even though it has not been formally ratified is that regarding facilities for finding employment for seamen. In 1921, the Indian legislature, though it did not favour ratification, suggested that "an examination should be undertaken without delay of the methods of recruitment of seamen at the different ports, in order that it may be definitely ascertained whether abuses exist and whether these abuses are susceptible of remedy." The Indian Seamen's Recruitment Committee of 1922, which was appointed for the purpose, reported that the existing system of recruitment led to grave abuses and unanimously recommended a completely new method which did not involve employment of intermediaries. Following the recommendation of the Committee an officer of the Mercantile Marine was appointed as Shipping Master at Calcutta to reorganise the shipping office there and to examine the question of the establishment of a recruitment bureau. Later on, the Shipping Master at Bombay also was given an assistant to deal with the question of recruitment. It was only in 1929, however, that the Government of India issued their final orders on the recommendations of the Seamen's Recruitment Committee. It will be going too much into detail to explain the system of recruitment which has thus been set up, but it will suffice to say that though the evils complained of have not been completely obliterated, much is already being done to eliminate bribery and corruption which were the besetting sins of the older regime.

I have given in my previous lecture a more extended

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\* "Act No. IX of 1931."

list of non-ratified Conventions which have led to social improvement of one kind or other in this country, and the cases I have singled out for detailed treatment above are purely illustrative in character. It is unfortunate that the time at our disposal does not enable me to discuss in greater detail not only all the non-ratified Conventions of this description, but also the long list of 34 Recommendations made by the various Conferences and on which also the Government of India have taken beneficial action of some kind or other. But enough, I hope, has already been said to indicate that the decisions of Geneva are coming to have a direct bearing on the legislative activities of our country and that the impulse from the Conference does not lose its force and vitality by having to come to us from such a long distance. I may close our examination of the direct results which have accrued to India as a result of our association with Geneva with a quotation from the well-known government expert on labour questions, Mr. A. G. Clow. In his recent publication, "The State and Industry", he says: "The International Labour Conference cannot compel countries to accept its conclusions, but its procedure and the fact that its Conventions and Recommendations have ordinarily to be submitted to the legislature in each country ensures the regular examination, both by the executive Government and by popular representatives, of numerous schemes for the amelioration of labour conditions.....The submission, at intervals, of conclusions reached by the Conference to the Legislative Assembly and the Council of State has been *instrumental in stimulating public interest in labour questions and at times in initiating measures which might not otherwise have been adopted.*"

Let us now turn to another aspect of the work of the I.L.O. You will remember that, when we commenced our examination of the results achieved by the I.L.O., I made a distinction between those results which were direct and were intended or contemplated by the authors of Part XIII of the Treaty, and those others which were indirect and were not clearly foreseen when the Treaty was drawn up. It is to the latter category of results that I would now draw your attention, and in so doing I may remark that though they have revealed themselves only in the course of the actual working of the I.L.O., these indirect results may prove, in the long run, to be even more beneficial in their social and political consequences than the direct results themselves. Besides, if these unforeseen consequences had not manifested themselves so clearly and unmistakably, the I.L.O.'s task of securing its immediate object, namely, the betterment of social conditions through legislation, might have been rendered much more difficult of attainment.

By far the most important illustration of these indirect consequences is the influence the creation of the I.L.O. has had upon industrial organisation. Both nationally and internationally, workers and employers are now organising themselves into well-knit and representative bodies, designed to protect the common interests and formulate the common policy of their respective groups. The formation of the Workers' and the Employers' group at the Labour Conference was not anticipated by the framers of the Treaty, and is, in fact, an unlooked-for development which many of them would have viewed with disfavour. But today they form a definite, organic part of the Conference, and have won for themselves

much the same status as "His Majesty's Opposition" in the British Parliament. It is of course, obvious that this kind of group 'action' in the Conference, when carried to extremes, may lead to abuses. "When parties are formed", says Mr. Clow, "there is inevitably a loss of independence of judgment and a tendency to approach all questions with a certain bias." Most men are reasonable, most parties are unreasonable." And among those who have strenuously pointed the finger of warning at this tendency have been Sir Louis Kershaw and Sir Atul Chatterjee. But, it has to be remembered that this is only another manifestation of the new tendency of modern legislation and was bound to follow from the very object for which the I.L.O. was set up. Whereas, formerly laws commanded or forbade certain things, the authoritarian conception of legislation has now given place to the more correct and democratic theory by which a law is merely an agreement between the citizens of any state to which the state has attached its imprimatur. The character of modern legislation is such that its effectiveness depends to a large extent upon the free and constant collaboration of the citizens to whom it applies. This truth has been negatively demonstrated by the history of the Civil Disobedience Movement. But it is in its application to technical social legislation—and most of our present day legislation is of this character—that we find its most striking positive illustration. Here, the law has to be worked out between the administration and the parties primarily interested, and the Parliament or other legislating authority usually finds that its function is mainly confined to little more than exercising a veto on such agreements as are already arrived at between the interests directly

concerned. Now, the main object of the Conference is to bring about an agreement between the employers and the workers, and to base a scheme of reform on their common accord. But an agreement is only possible between highly organised units which are able, not only to authoritatively state their respective cases, but also to impose the terms of any compromise that may be arrived at upon the dissentients in their own groups. This is the justification of the clear party alignments observable in the Labour Conference.

But the Workers' and Employers' groups of the the Conference are mere *ad hoc* combinations which function only during the Conference. An even more interesting development of this tendency towards closer organisation is revealed by the formation at the Washington Conference of 1919 of a permanent International Federation of Industrial Employers, with a view to give the employers throughout the world a medium for the formulation of a 'common policy' in industrial matters. A corresponding development on the workers' side has not yet been rendered possible on account of the fact that competing organisations, like those of Amsterdam and Moscow, were already in the field. It is, however, in the domain of national industrial organisation that the influence of the I.L.O. has been most conspicuous. According to Art. 389 of the Treaty, the Government of each State is bound to nominate non-Government delegates and advisors chosen in agreement with the industrial organisations, if such organisations exist, which are most representative of employers or work-people as the case may be, in their respective countries. The formality of making the nomination rests with the Government

because of the diplomatic character of the Conference, but since the Government has to secure the agreement of the most representative industrial organisations, it follows in effect that it is on these organisations that the Treaty has conferred the right to choose the non-Government delegates. Two kinds of difficulties arose in the application of this Article to countries where industrial organisations had not been created, or else, there were more than one industrial organisation of more or less the same degree of importance. In a country like the Netherlands, for instance, where there are at least two labour organisations with a membership of more than 1,00,000 each, the question arose as to which of these had the right to be consulted by the Government under Art. 389. It was only after referring the dispute to the Permanent Court of International Justice that a final solution was found. It is, however, in countries where industrial organisations are yet absent, or those which exist have not struck deep enough root, that a more difficult problem arose. If there were no labour organisations of any kind or the few organisations that had been created had not yet attained a fairly representative character, how was the government to select its non-government delegate? In Japan and India, that question came early to the fore, and the credentials of the Japanese workers' delegate were challenged at the very first conference of 1919. Under the stimulus of the prospect that, in virtue of the Treaty Provision, the Japanese workers would be given representation at the International Labour Conference, as many as 71 new labour unions were created in Japan in 1919. But the Japanese Government argued that the existing trade



Unions, which had a total membership of only 30,000 out of the four million workers of the country, were not sufficiently representative of the general mass of the workers. It, therefore, adopted a method of election in which both the organised and the unorganised workers participated, and as a result, much to the disappointment of the trade unionists, a non-unionist was sent to represent Japanese workers at the earlier Conferences. The Japanese trade unionists unsuccessfully challenged the non-union labour delegate's credentials till 1924, and in 1922, as a part of their general agitation for recognition, the General Confederation of Japanese Labour adopted a resolution of non-co-operation with the I.L.O. In view of these circumstances, and particularly of a cordial, but nonetheless urgent, recommendation made by the Conference of 1923, that the Government should in future adopt a method for choosing the Workers' Delegate which will give general satisfaction, the selection of the Workers' Delegate from 1924 onwards was made solely on the recommendation of trade unions consisting of more than a thousand members. The new dignity that was thus conferred upon Japanese unions proved a powerful incentive towards further organisation ; an active campaign was launched all over the country either to organise new unions, or to remodel old ones and within an year's time the total union membership was nearly doubled, reaching about 2,30,000 at the end of 1924, the rate of increase during the year being almost equal to that during the previous 40 years.

An almost similar story could be told of India. In 1919 there was no Trade Union Congress in India ; nor indeed was there more than a handful of trade

unions. For the Washington Conference, therefore, the Government had to choose, on its own initiative, Mr. N. M. Joshi as the representative of Indian labour. Mr. Joshi's previous record of selfless work was such that what we may call the labour conscience of India upheld the choice, but there were at the same time certain apprehensions felt about giving the Government the right to make future nominations in this manner. The fear was, of course, natural that if the Government was allowed unrestricted authority to choose labour delegates, its choice might sometimes fall on mere assenting nominees, who might betray Indian labour interests in order to find favour with the Government. The Government might conceivably utilise this privilege as an instrument to win over to its side the leaders of Indian labour. It was this misgiving that induced some of the more active minds in the Indian labour movement to organise the All-India Trade Union Congress. Diwan Chaman Lall who was its principal organiser, and Mr. Joseph Baptista and Lala Lajpat Rai who took leading parts in it, have all of them acknowledged that their dominant purpose in calling together an all-India body of this nature even before trade unionism had struck its roots in the provinces was to put an end to the Government's choosing the labour delegate for Geneva on its own initiative. The presidential addresses of Diwan Chaman Lall at the eighth and of Mr. M. Daud at the ninth session of the All India Trade Union Congress afford further evidence that the cause that precipitated the organisation of the All-India Trade Union Congress in 1920 was the desire of labour to secure the controlling interest in the nomination of Indian labour delegates to Geneva.

What has been accomplished by the Indian working classes as a result of their contact with Geneva has also been partially accomplished by the Indian employers. In September 1920, the Collector of Bombay addressed a letter to the Bombay Mill-owners' Association regarding the nomination of representatives of employers to the Labour Conference and Commissions of Enquiry under Articles 389 and 412 of the Treaty. He explained that, according to the terms of the Treaty, it was essential that persons nominated as representatives should possess the full confidence of their group, and further stated that, so far as employers were concerned, they appeared to have no common organisation or machinery for electing a representative of all the different employers' associations in the country. He, therefore, suggested that the millowners of Bombay should take the lead in calling together a Federation of Indian Employers. The Committee of the Millowners' Association thereupon consulted the leading associations representing employers throughout India, and at a meeting of the representatives of all such associations held at Bombay in December 1920, Mr. Rahimtulla Currimbhay, the Chairman, explained that a Federation of Employers' Associations, once created, would prove useful not only for the election of delegates to Geneva, but also for the transmission to government of the considered views of Indian industrial organisations on questions affecting all branches of industry. Rahimtulla Currimbhay and Vithaldas Thackersey, who were the leading spirits of this movement, soon afterwards died; and nothing further was done to give effect to the decisions of the Bombay meeting until 1925 when the matter was again taken up

for consideration, but once again to be postponed *sine die*. Meanwhile, industrialists of Indian nationality were feeling humiliated that an unduly large number of the Indian employers' delegates to Geneva were Englishmen, even though they had considerable business interests in the country. Prompted by this feeling, and still further by the marked antagonism between the British and the Indian ship-owning interests in this country, a deputation was sent to the Maritime Conference of 1926 to challenge the credentials of the Indian employers' delegate on the ground that the delegate then nominated by the Government, Sir Arthur Froom, was not an Indian national and that the Government did not consult the Indian Employers' Associations in appointing him a delegate. The results of that challenge and the decision of the Credentials Committee in that matter have practically been responsible for the creation of the Federation of Indian Chambers of Commerce and Industry in 1927. In 1929, again, the credentials of Mr. P. H. Browne, one of the employers' advisers to the 13th Conference, were challenged before the Credentials Committee, and though the Committee and the Conference, following established precedents, upheld his nomination, they at the same time gave a broad hint that representation at Geneva implied the representation of national interests. In the result, subsequent nominations as employers' delegate have been made on the recommendation of the Federation of Indian Chambers of Commerce and Industry, though the other and older organisation—the Associated Chambers of Commerce of India and Ceylon—consisting mainly of British interests in India, has also been allied with the employers' delegation by the presence of an

adviser nominated by it. Further, in order to protect the special interests of indigenous maritime enterprise, the Indian ship-owners have now organised a body known as the Indian Steam Ship Owners' Association, and it may be expected that the competition as regards representation at Geneva when maritime questions are taken up for consideration will, hereafter, be between this body and the Associated Chambers of Commerce of India and Ceylon.

Having mentioned the Credentials Committee, this seems a good opportunity to examine how this Committee has been utilised to raise before the Conference questions which, in strict theory, may not appear germane to it. We have seen how it has been possible for Indian employers to raise the question of nationality at the Conference. In the course of the discussion which arose on it, the Indian employers have had occasion to point out how the nomination of a Britisher as the Indian employers' delegate will, in effect, give a double vote to Great Britain. Incidentally, the whole question of India's position not only in the British Empire, but also in the League of Nations Organisations, was brought under discussion. It will be recalled that some countries objected to the admission of India as an original member of the League on the ground that a politically dependant country had no place in an organisation of "fully self-governing" states, and their fears were based on the ground that India's membership would merely give an additional vote to Great Britain. In the International Labour Commission at Paris, the point was hotly debated and a clause, supported by the American and French delegations, to the effect that no State, together with its

dominions and colonies whether self-governing or not, shall be entitled to nominate more than one member to the Governing Body, was passed by the Commission, but somehow did not survive the deliberations of the Peace Conference. At this Conference, Lord Cecil, replying to these objections, was at pains to give the assurance that "incontestably" British India was "democratically administered". He further added that the British Government "has set up an Imperial Council for India which appears to be the thing India needs at the present state of her affairs. If the League of Nations were to employ words which would arbitrarily exclude India, it would be taken by its people as a bitter insult. I am free to tell you that there is a spirit of unrest abroad in India of a serious character. The British Government is trying just as rapidly as possible to advance India into a self-governing colony, and if anything were to happen which would exclude India, it would be unfortunate indeed". President Wilson's remarks on Lord Cecil's assurance were very appropriate: "For myself I have a great admiration for India's performance. The spirit which she has shown is fine. Nevertheless, the impression of the whole world is that she is not self-governing, that the greater part is governed by the laws of Westminster and the lesser part is governed by Princes whose power is recognised and supported by the British Government within certain limits. Therefore, even though it may be hard to exclude India, still we ought to recognise that all governments derive their just powers from the consent of the governed". All these considerations have been once again brought to the notice of the Conference by the debates on the nomi-

nation of the Indian employers' delegate, and when the Labour Conference approved of the Report of the Credentials Committee that representation at Geneva implied the representation of national interests, it is not surprising that a considerable section of public opinion in India regarded it as tantamount to an international conference passing a verdict upon the present system of administration of this country. In like wise, the Geneva Conference has been made a forum for the ventilation of the dissatisfaction felt in certain circles with the Fascist regime in Italy; and we find that, even at the first Conference at Washington, Mr. Mertens presented a resolution calling upon the Japanese Government "in the interests of democracy" to remove all impediments in the path of free association in that country. However much developments of this nature, which trench on very delicate grounds, may be deplored by the original framers of the Treaty, it has to be admitted that the enlargement in this direction of the powers of the Conference is certainly a step towards healthy and democratic expansion and the creation of a spirit of international responsibility.

Another direction in which the new spirit of international responsibility has manifested itself deserves notice here. We have seen that there is a definite connection between the Conference and the various national legislative bodies by which the decisions of the Conference have to be submitted to the vote of the representatives of the people in each country. The Government of India, for instance, has to bring resolutions before the central legislature for the ratification or non-ratification, as the case may be, of the Geneva Conventions. And the

necessity thus thrown on Governments to justify themselves before their own national assemblies has found an unexpected international development. If at the time the League Organisations were founded, it had been proposed to ask the various States to render an account of their doings to the annual Conferences at Geneva, the *pandits* holding to the theory of national sovereignty would most assuredly have raised a powerful hue and cry. But the slow growth of the procedure now adopted by the International Labour Conference has made possible certain developments which, if they had been formulated in precise legal phraseology, might have provoked very serious objections. Thus, though the sovereign right to ratify or not to ratify a Geneva decision rests absolutely with the various national governments, and neither the Conference nor any of its members has any right to ask for explanations as to why a particular State has not ratified any Geneva decision, any one following the animated debates that usually take place on the Director's annual report at any Labour Conference might well be excused for assuming that such a right existed. In considering the progress of ratifications, complaints and counter-complaints are often made of the slowness of the progress realised, and these not alone by the workers' groups. When our labour delegates in the Conference attack the Government of India for its tardiness in introducing measures of social reform, it has been sometimes pointed out by our Government delegates that these are purely national questions which ought not to be raised on an international platform. In saying this, the critics have missed the mark. For, when a question of this character is raised in the open Conference, other



members are free to intervene and the matter assumes at once an international complexion. As a matter of fact, it is not the workers' representatives alone who complain against their own or any particular group of governments. Instances are not wanting where even government delegates have felt themselves free, in most courteous and diplomatic language it is true, to attack other governments for their failure to accept the Geneva standards. In these cases, the governments attacked have not taken refuge behind the doctrine of sovereignty, but have been only too willing to come forward with explanations to justify their conduct before the public opinion of the world. Earlier this evening, I had occasion to read out to you a passage from one of Mr. Montagu's letters about the non-ratification of the Convention regarding the age of admission of children to industrial employment. You might have noted that, in concluding his letter, he wanted Geneva to communicate its contents to the various member-states in order that "the other members of the International Labour Organisation may be made aware that India has been compelled to withhold ratification for merely technical reasons, but that she was prepared to give substantial legislative effect to the provisions of the Convention." Here is a case of a government coming forward with a voluntary explanation even though the I.L.O. has no right of any kind to demand it. An even more piquant example of the growth of this spirit of international responsibility was the exchange-at-arms which took place during the 8th session of the Conference between the Government representatives of India and Japan. Sir Atul Chatterjee's complaint was that while India had

lost no time in carrying out the provisions of the Hours Convention, the Japanese government contented itself with the statement that in Japan a very large number of factories did not work longer hours than in India. Said Sir Atul: "With all due deference to Mr. Mayeda (the Japanese Government Delegate), I would say that this is no answer at all. The position in India becomes very difficult every day and we had hoped that the Japanese government will be able to give attention to this very important point at a very early date. To say that Japanese factories work the same hours as the Indian factories is no answer at all to the recommendations that were made in Washington, recommendations which were accepted by the Japanese delegates to that Conference. *I recognised last year, and I wish to repeat again, that we do not claim that there is any obligation on the part of the Japanese Government to ratify that Convention; but we do hope that Japan will give very close attention to this particular Convention at a very early date.*" Sir Atul then referred to the employment of women at night in Japan and complained that the Japanese Act of 1923, even if promulgated, would not meet the Washington Convention regarding nightwork of women, and rounded off by explaining how the difficulties in India would be multiplied if "Japan does not fulfil her international obligations." Mr. Mayeda, in replying, pointed out that India was not entitled to accuse any other country of delay in ratification, but proceeded to explain at length the reasons why Japan was behind-hand in accepting the Washington decisions. He claimed that labour conditions in his country were, on the whole, far superior to those in India, and added that, unlike India, his Government undertook to ratify the Convention

regarding the minimum age of workers. India has done nothing by way of national health insurance, while the Japanese Act on this subject is based upon the most modern systems of compulsory insurance for all workers with small incomes. India, again, has not done anything in the way of establishing employment exchanges, in which respect Japan has taken a big forward step. He did not want to accuse the Government of India or to say that it is contravening the Unemployment Convention. But, with fine irony, he congratulated the Government of India on the favourable circumstances in which it found itself, in that it did not find it necessary to set up employment exchange offices as was required by the Convention. "I repeat," said Mr. Mayeda, "that I do not accuse India on this point. I pay great respect to India for the sincerity with which she has applied the Conventions ratified by her." These thrusts and counter-thrusts made by representatives of the Member States of the I.L.O. in the international forum at Geneva show that in practice they are prepared to go beyond the obligations which they have assumed under the Peace Treaty. The atmosphere of frank and healthy criticism which has thus been created is one calculated to raise in us great hopes. It is based on the conviction that the progressive development of human civilisation is possible only if a spirit of responsibility between the various nations of the world *inter se* is postulated. Just as the duel between Sir Atul and Mr. Mayeda has resulted in the prohibition in Japan of the employment of women and young persons under 16 between the hours of 10 or 11 p. m. and 5 a. m., and in the reduction of the working day to 8½ hours since July 1929, so it is conceivable that other

countries might bring the force of world opinion to bear on India and compel her to improve conditions in this country. There is, moreover, the feeling, which even government officials share, that it argues an absence of self-respect to plead for special concessions as India had done at Washington. To quote the words employed by Sir Atul Chatterjee, when as Secretary to Government in the Department of Industries and Labour he proposed in 1921 the ratification of the Washington Convention to the Council of State: "The eyes of the world, of the democracies of every country in the world, are at the moment on us. I am confident that the Council has a full sense of its responsibility for the good name and dignity of India in international councils. We do not want to be considered a backward nation always and for ever." The generation of this spirit of national self-respect, of the desire on the part of each nation to appear with a clean record before the other nations of the world, has been by many considered the greatest contribution that Geneva has made to the cause of international social progress.



## VI

### THE I.L.O. AND INDIA'S POLITICAL FUTURE.

We shall deal in this final lecture with a special class of problems that has arisen as a result of India's membership of the League of Nations and of the International Labour Organisation which, as we have seen, is an integral part of it. These institutions were created by the Treaty of Versailles, and at the Paris Peace Conference which settled the terms of the Treaty, India was represented by a delegation of three members, one of whom was a distinguished representative of the Indian States,—the Maharaja of Bikaner. Besides, the Treaty does not show that, in signing it, the Indian delegates had made reservations of any kind. On these grounds, one may be justified in assuming that the Indian States also have agreed to participate in the work of the Geneva Organisations and to be bound by their decisions. But there appears to have been some difficulty about the adherence of the Indian princes to the International Labour Organisation. When, on the 11th April 1919, Mr. Barnes submitted the report of the Commission on International Labour Legislation to the fourth plenary session of the Peace Conference, the Maharaja of Bikaner, who supported him, made it clear that legislation enacted for British India could not apply to territories of Indian ruling princes which lay outside British India. Now, this statement, however correct it may be as a summary of the legal relationships between British India and the Indian States, cannot be held to mean that the Indian princes have definitely refused to abide by the I.L.O's decisions. All that it means is that when a Con-

vention is ratified by India as a whole, the various Indian States also will have to undertake legislation independently of British India to give it effect within their respective jurisdictions. This would further imply that, in India, there are many 'competent authorities' within the meaning of paragraph 5 of Article 405 of the Treaty, to which the Geneva Draft Conventions have to be submitted for ratification. Apart from this, it is difficult to see how the Indian States can remain unaffected by the terms of the Treaty which their representative has ratified on their behalf. There is this further consideration, that even Indian States are, by treaties with the British Government, bound to leave their foreign relations under the control of the British Government and therefore, to that extent, their freedom to pursue a different line of action from that of the British Government is curtailed. If we may deduce any argument from the analogous relations of the Indian States with the League of Nations, we shall not be wrong in inferring that the Indian States are as much bound by the decisions of the I. L. Conference as by those of the League Assembly. In the delegations sent by India to the annual Assemblies of the League, the Indian States have always been represented; and this practice has now been sanctified by custom into a principle, even though the States do not contribute to the expenses incurred by India's membership of the League Organisations. Non-payment of contribution, therefore, cannot be argued as a reason for the Indian States remaining outside the orbit of the activities of the League Organisations. Nor is this all: earlier, in considering the membership of the I.L.O., we had occasion to deal with the constitutional question created by some States which have re-

tained their membership of the I.L.O. while breaking off their relations with the League. The present position of the Indian States raises the question whether it is legally permissible for any state or part of a state to keep up its legal relation with the League and at the same time to keep away from its sister organisation. Article 387, paragraph 2, of the Treaty is very specific on the point :

“The original Members of the League of Nations shall be the original Members of this Organisation, and hereafter membership of the League of Nations shall carry with it membership of the said Organisation.”

I am not referring to this aspect of the position of the Indian States in the I.L.O. merely for the sake of propounding a legal conundrum. A practical difficulty has arisen which tends to nullify the effect of the Geneva decisions by the Indian states refusing to ratify Geneva Conventions and thereby holding up social progress in the adjoining territories of British India. The failure of any nation (or part of a nation) to adopt humane conditions of labour is an obstacle in the way of other nations (or other sections of the same nation) which desire to improve the conditions in their own countries (or in the territories occupied by other sections of the same nation.)

The attitude taken by the Government of India on this question is clearly summed up in Lord Birkenhead's letter of the 28th September 1927 to the Secretary-General of the League of Nations. In explaining that ratification of Geneva Conventions would not be possible by the Government of India if the obligations arising out of them which would be assumed by the Government of India extended also to the Indian States, he says :

“These States number several hundreds and the great majority of them are, from the industrial point of view, undeveloped. They vary greatly in size and population, and the exact relations between the various States and the Paramount Power are determined by a series of engagements and by long-established political practice. These relations are by no means identical, but, broadly speaking, they have this in common, that those branches of internal administration which might be affected by decisions reached at International Labour Conferences are the concern of the Rulers of the States and are not controlled by the Paramount Power. The Legislature of British India, moreover, cannot legislate for the States, nor can any matter relating to the affairs of a State form the subject of a question or motion in the Indian Legislature.

“That being the position, it is clear that the Government of India cannot undertake the obligation to make effective in the Indian States the provisions of a Draft Convention, and it follows, therefore, that a Draft Convention can be ratified by India only in the sense that the obligations are accepted as applying to British India.

“No other conclusion is possible. If the consequences of ratification were to apply to the whole of India, it would be necessary, under the procedure laid down in Article 405 of the Treaty of Versailles, that in the case of each of the Indian States all Draft Conventions should be brought before “the authority within whose competence the matter lies for the enactment of legislation or other action.” And if this cumbrous procedure could be carried out, the failure of a single State to agree to make effective the provisions of the Convention would



presumably prevent ratification. Further, even if these difficulties could be overcome, it would be necessary, in order to comply with the provisions of Article 408 of the Treaty, to obtain from each of these several hundred States an annual report on the measures taken to give effect to the provisions of the Convention.

“This brief description of the practical difficulties which, in my view, are insurmountable, will make it clear that, if obligations arising out of a Draft Convention are not limited to British India, the only course open to the Government of India would be to refuse consistently to ratify all Draft Conventions—a course which they would be most reluctant to adopt, as they have in the past, in their progressive programme of social legislation, derived so much inspiration from the work of the International Labour Organisation and have given so many tangible proofs of their sympathy with its objects.

“But although unable to assume obligations in regard to the Indian States, the Government of India will (on the analogy of the ninth paragraph of Article 405 of the Treaty of Versailles), when a Draft Convention has been ratified by India, bring it to the notice of those States to which its provisions appear to be relevant, and will also be prepared, when necessary, to use their good offices with the authorities of such States to induce them to apply so far as possible the provisions of the Convention within their territories.

“This statement of the position..... is communicated to you only for your information and to enable you to answer any enquiries that may be addressed to you. I would ask you to be good enough, when forwarding a copy of this letter to the Director of the International

Labour Office, to request that it may be given the fullest publicity."

In short, the Secretary of State for India made it clear that all ratifications by India were subject to a territorial reservation, though we have seen earlier that no reservations of any kind were admissible under the Treaty. The resulting anomaly has somehow to be rectified, and an occasion for re-opening the question has now been provided by the fact that British Indian employers have recently come to feel the increasing competition they are encountering from industrial concerns in Indian States, in most of which there are no factory laws of any kind, and labour still continues to be more or less unprotected. In saying this, however, one should not forget that there are a few advanced Indian States, like Mysore and Baroda, where attempts of a kind have been made to regulate and improve labour conditions. Voluntary action of this kind on the part of the States, if it had been forthcoming in fuller measure, would have obviated the necessity for a discussion of the constitutional problem involved. As it is, in a majority of the States, no protective action of any kind has been taken or is being contemplated; and meanwhile, the worsening of conditions in the cotton industry of British India has forcibly drawn the attention of Indian industrialists to the necessity for bringing Indian States into line with British India in this respect. The anomaly caused by the presence within the geographical limits of India of two classes of population, one of which is protected by labour legislation and the other is not, led Mr. R. K. Shanmukham Chetty, adviser to the employers' delegate to the 12th session of the International Labour Conference, to raise

the question at its tenth sitting. The subject was by no means new to the Conference, as prominent labour leaders like Mr. <sup>MM</sup> Joshi, Lala Lajpat Rai and Diwan Chaman Lall had already discussed the peculiar position of the Indian States at its previous sessions. Happily, therefore, this was a question on which the workers and the employers of India were in agreement as to the claims of economic justice and the dictates of humanity. Even earlier, the Indian Factory Commission of 1908 had drawn attention ~~to~~ the possibility of competition from Indian States proving a serious handicap to the efforts of the Government of India to improve labour conditions within their own territories. Mr. Shanmukham Chetty went further, and suggested that the Government of India should consider the advisability of making arrangements under which conditions in Indian States in this respect could be assimilated as far as possible to those obtaining in British India. "It is in the interests of the International Labour Organisation", said he, "that steps should be taken to see that the Conventions are applied in the Indian States, and if that is not done, let me tell the Director and the International Labour Organisation that we, as employers, would be forced to resist their ratification in British India itself. Our record during the last ten years shows that we have readily co-operated with the Government of India and the International Labour Office in ratifying a number of Conventions; but if in our own country and in the adjacent territories of the Indian Princes there are to exist working conditions which will mean serious competition to us, then we, as Indian employers, shall be compelled to resist the application of Conventions

to British India itself." Mr. Chetty's analysis of the present situation is both full and accurate, and in recent years there has been a tendency on the part of certain British Indian industrialists to evade the provisions of the Indian Factories Act by establishing mills or factories in the adjacent territories of the Indian States. A more detailed account of this migration of industry is given in the 1924 report presented by the Inspector of Factories of the Punjab. The relevant passage may here be quoted, inasmuch as it has a bearing on the future industrial relations not only between British India and Indian States, but also between the various provinces of British India *inter se*.

"Factory owners in districts adjoining Indian States protest that the Amended Act, entailing the upkeep of registers and compliance with other regulations regarding working hours, Sunday closing, etc., places them at a disadvantage with those in Indian States, where the Factories Act is not in force. Their complaint is a genuine one and one which is felt particularly during the busy ginning season, when there is an all-round demand for skilled and unskilled labour. Employment in factories in States situated within two or three miles of British territory is always given preference by the workers as they know they are at liberty to work in State territory as long as they wish and thereby earn bigger wages. This is particularly applicable to child labour. During 1924, one factory in Multan district was removed to an Indian State for the purpose of avoiding the provisions of the Indian Factories Act, whilst another in Lyallpur district is expected to be removed next season. Unless the Factories Act is made uniform in both British and Indian

States territories, the tendency will be for factories to be erected in States where factory legislation does not exist and the objects of the Act will be defeated."

That this kind of competition may also develop between one Indian State and another is evident from a case which occurred in 1928 when a certain industrialist removed his factories from one Indian State which had recently adopted a law imposing restrictions on hours of work, to another State where no such law was in operation.

It is to be hoped that the lessons we have already learned from the existence of divergent labour codes in British India and in Indian States will not be lost sight of in the endeavours that are now being made to evolve a new constitution for this country. Mr. Shanmukham Chetty's plea for uniformity of labour laws as between British Indian territories and the territories of Indian princes is capable of a somewhat wider application than he then contemplated; for, the considerations which he urged for a review of the present situation will apply with equal force in framing the social and economic policy of British India itself in the near future. In this connection, it is necessary to cast a glance at the existing distribution of legislative and administrative functions as regards labour subjects between the Government of India and the various Provincial Governments. As Mr. S. Lall, I. C. S., has pointed out in the very lucid memorandum which he prepared for the Whitley Commission, "factories, settlement of labour disputes and labour welfare (including provident funds, general, health and accident insurance and housing) are provincial reserved subjects, but subject to central legislation. The Provincial legislatures are not

debarred from initiating legislation on these matters, but they can do so only with the previous sanction of the Governor-General. The actual administration of the Acts passed by the Central Legislature under the above heads falls on the Provincial Governments which have to bear the entire cost of administration, as it is not permissible under the constitution to incur any expenditure from central revenues on the administration of provincial subjects. This constitutional position is perhaps, to some extent, responsible for the opposition shown by some of the Provincial Governments to labour measures on which their opinions have been invited by the Government of India. The Governor-General in Council exercises control over the administration of the Acts passed by the Central Legislature falling under the above heads in two ways. In the first place, he is vested by statute with the general power of superintendence, direction and control, and, secondly, these Acts in most cases either specifically reserve certain powers to him or make the exercise of the powers conferred on Provincial Governments subject to his control. Thus, the Indian Factories Act confers power on the Governor-General in Council to make rules requiring occupiers or managers of factories to furnish returns and for the adequate disinfection of wool which may be infected with anthrax spores (Sections 38 and 38A), while Section 57 of that Act also empowers the Governor-General in Council to exercise any of the powers conferred upon the Provincial Governments by the Act. Again, the exercise by Provincial Governments of the powers to make rules under Section 37 and to grant exemptions from the provisions of the Act under Sections 30 (1), 32 and 32A, is subject to the control of

the Governor-General in Council. The Workmen's Compensation Act, 1923, also reserves wide powers to the Governor-General in Council. The general principle observed by the Government of India has been to grant to the provinces as free a hand as possible in the administration of these Acts. Where interference is found to be necessary, the general policy has been to tender criticisms in the form of advice and to avoid the issue of direct orders. Under the present Devolution Rules, "Regulation of mines" and "Interprovincial migration" are central subjects. The Indian Mines Act of 1901 conferred large powers on the Provincial Governments, but these were curtailed considerably by the Act of 1923. The technical administration of the latter Act is vested in the Governor-General in Council, while minor matters of administration are left to be dealt with by Provincial Governments. Here again, the power to make rules conferred on Provincial Governments can be exercised by them only subject to the control of the Governor-General in Council. In the matter of inter-provincial migration, the part played by Provincial Governments is that of an agent of the Central Government."

The present distribution of legislative and administrative functions between the central and the provincial Governments is not likely to remain unaltered very long. Whatever may happen to the report that will be presented to the British Parliament by Sir John Simon and his colleagues, it is clear that conditions in India are ripe for introducing profound modifications in the existing constitution; and one of the points which will have to be considered in the future settlement is the place to be assigned to labour. Since it is obvious that the future

constitutional development of India is cast along federal lines, the question arises whether labour should be treated as a federal or as a provincial subject. An examination of the constitutional and administrative position of various federal countries in this respect reveals a baffling diversity in principle and practice. Thus, in the U. S. A., Canada and Australia, labour legislation falls within the competence of the Provincial or State Governments, with the notable and significant exception that, in the case of labour legislation relating to conditions of work at sea, the Central Government is everywhere the legislating authority. In Germany and Switzerland, however, the Central Government has the right to take the initiative in labour legislation, but the provincial governments may legislate on any matter not already regulated by the Central Government. As regards administration of labour laws, this falls almost exclusively within the domain of provincial authorities in Germany. In Switzerland, competence is divided between the Central and Cantonal Governments. In the United States, Canada and Australia, the administration of labour laws is a matter for the provinces. It will thus be observed that the honours are more or less evenly divided between the Central and the Provincial Governments. The national practice in the various countries, therefore, affords us no guidance in our own attempts at constitutional reconstruction. Nevertheless, it is important to note that in such a matter as the initiation and administration of laws relating to labour at sea, even those countries which insist on their full meed of provincial autonomy have stipulated for uniform regulations by the Central or Federal authorities. This is a principle which ought



to be regarded as the only guiding principle in determining the allocation of labour legislation and administration in a federal country. An explanation for labour being treated in some federal countries as a purely provincial subject may probably be that, when many of the constitutions which we have examined were drawn up, industrialisation was not yet fully developed, and its evils had not yet become conspicuous enough to be noticed. The dominant motive of the framers of many of these constitutions was to secure for the provinces as much liberty of action as possible, and to give the central government as limited powers as were consistent with the due exercise of its authority. This desire for ensuring the maximum of liberty for the provinces is attributable to the fact that, in these instances, federation was the result of the separate provinces uniting together, and not, as is being contemplated here, of the central government being split up into provincial units. Secondly, the authors of these constitutions were then thinking in terms of politics and of provincial *amour propre* rather than in terms of economics. Today, however, economics has displaced politics in importance, and it is everywhere being recognised that every effort ought to be made to frame economic policies which shall be nationwide, and not merely provincial, in scope. In determining, therefore, the subjects which should be handed over completely to the provincial governments, it is essential to keep in mind the principle that no impediments ought to be placed in the path of uniform advance in labour matters. It will be remembered that the Montagu-Chelmsford Report was in favour of handing over to the provinces the power of legislation in all labour matters, inter-

provincial migration alone being singled out as a fit subject for central administration. If that scheme had gone through, it would have been impossible for the Central Government to have provided for uniform regulations in such matters as factories, mines, trade unions, workmen's compensation, etc. The proposals of the Montagu-Chelmsford Report were altered later on, both by the Southborough Committee and by the Government of India, with the result that we have today a good many Acts, which, seeing the paucity of provincial legislation up-to-date, would possibly never have been adopted by all the provincial councils acting on their own initiative.

In my opinion, labour matters are of such supreme importance, and uniform advance in this sphere is so essential, that in the future constitution of India, the federal government should be vested with even more comprehensive legislative powers as regards labour, and wider powers of supervision over the provincial administration of centrally enacted labour laws. At the same time, the provinces should be given concurrent powers of legislation in labour matters, so that any province which is desirous of improving labour conditions within its territories should not be debarred from doing so by the exclusive centralisation of legislative powers in the federal government. The important point is that the national minimum as regards labour should be set up by the federal legislature, since the interests of Indian workers should be regarded as a composite whole and ought not to be subjected to the vicissitudes of provincial legislation. We have already seen the difficulties created by the existence, side by side, of divergent labour standards, when we considered the question of the

place of the Indian States in the Indian economic unit. Progress in labour conditions in British India has been impeded to a great extent by these States, which remain as survivals of a medieval economic system, and refuse to join in the attempts of British India to impose more humane standards. We must thank our political past for the anomalous position occupied by the Indian States within our polity; they constitute a *damnosa hereditas* which we are compelled to accept for the time being. But one need not accept with the same philosophical resignation the plea that the labour questions of each Province have a peculiarity all their own and have, therefore, to be legislated upon by the provincial Governments only. If the successful political experiments of Geneva have any lesson to teach at all, it is that the existence of divergent social and economic standards need not necessarily operate to hinder attempts to ensure uniform progress. Geneva frankly recognises that "differences of climate, habits and customs, of economic opportunity and individual tradition make strict uniformity in the conditions of labour difficult of immediate attainment"; and the way devised at the Paris Peace Conference to overcome this difficulty is enshrined in the principle of tempering the wind to the shorn lamb. The procedure there laid down is that in framing legislative proposals, the Labour Conference should have due regard to those countries in which climatic conditions, the imperfect development of industrial organisations or other special circumstances, make the industrial conditions substantially different, and should suggest the modifications which may be required to meet the case of such countries. (Article 405 of the Treaty of Versailles.) Applying this principle to India,

there should be no objection to the federal parliament of this country taking control over labour legislation both in the Provinces and, if the Indian princes are agreeable, in their territories as well, and suggesting the necessary modifications to suit the case of those regions which have not yet come to the economic and industrial level of other parts of India.

Once the dominant principle of ensuring uniformity is accepted, it will become apparent that labour ought to be treated as a federal subject in the allocation of functions between the provinces and the Central Government in the new constitution. It will, however, be instructive to see how interprovincial disparities as regards labour conditions may be productive not only of much preventible social waste, but also of unhealthy interprovincial rivalries. One striking instance will perhaps be sufficient to prove this point. For a long time children of tender years have been worked for unduly long hours in the carpet-factories of Amritsar which are outside the scope of the Act, as they do not employ any mechanical power. The clamant nature of the evil compelled the Government of India in 1927 to suggest to the Government of the Punjab that these carpet-factories might be notified under section 2 (3) (b) of the Indian Factories Act, so that they might be brought under the supervision of the Factory Inspection staff. The Punjab government replied that since the carpet-factory owners at Amritsar do not directly employ children, but pay master-weavers on piece rates who keep the children at work, any attempt to bring the factories within the scope of the Act would lead to the erection of single looms in the homes of the workers where the children would be employed

under infinitely worse conditions than those prevailing in the factories. Through the good offices of the Punjab Government, the carpet-factory owners agreed to exclude children under 8 years of age from their factories, but a higher minimum age was opposed by the industry on the ground that, unless boys are employed in this work from their childhood, they would not be able to obtain proficiency in the art. In regard to the working hours of children, master-weavers declared that a reduction in the hours of work would make it impossible for them to get the work done on the terms fixed by the factory owners. The number of children under 12 years of age employed in the carpet-factories at Amritsar represents 23 per cent. of the total number of operatives in the industry, and the hours of work, according to the Inspector of Factories, were from sunrise to sunset, with a break of an hour at midday in winter and two or three hours in summer. The Government of India were unable to acquiesce in the continuance of the existing conditions, and they once again pointed out to the Punjab Government that the existence of analogous conditions in Persia had led to the intervention of the International Labour Office with the result that the Persian Government ordered the carpet-manufacturers of Kerman not to employ children under 10 in the industry, and not to employ them for more than 8 hours a day. It was, therefore, suggested that legislation might be undertaken to secure adequate control over the conditions of employment of children in the Amritsar carpet-industry. The Government of the Punjab pointed out in reply that there were carpet-weaving factories in Agra, Mirzapur and in the Indian States, and that if the proposed legislation

were applied to the Punjab alone, it would place the Amritsar industry at a distinct disadvantage and would drive most of the labour from Amritsar to other carpet-making centres in the neighbouring provinces or Indian States. We thus see how, even in such a glaring instance as this, the fear of interprovincial rivalry and of the possible migration of industry from one province to another operates to impede reform, the urgent necessity for which is admitted on all hands.

There is also another consideration which points to the wisdom of keeping labour as a federal subject in the new constitution. Although the provinces now enjoy wide powers of legislation in such matters as labour welfare (itself a very wide subject) and the settlement of industrial disputes, their legislative output till now has been almost negligible. It is true that Bombay took the initiative in bringing in a Bill to deal with trade disputes, and that the Central Government took nearly eight years to enact legislation of its own on this particular matter. Again, though Mr. N. M. Joshi has long been pressing the Government of India to pass an Act dealing with maternity benefits, it was left to the provincial legislature of Bombay and the Central Provinces to enact legislation on these lines. The only two other Provincial Acts have been the Coorg Act of 1926 which gives another lease of life to the system of criminal punishment of breaches of contract, and the Madras Act of 1927 which, by repealing the Madras Planters' Act, has put an end to the same system in the Madras Presidency. Provincial administrations have not usually shown themselves gifted with any great enterprise or initiative in the matter of effecting labour improvements; and, in any case, it would

not be wrong to assume that members of the provincial councils are more concerned with looking after their comparatively narrow provincial interests than in any endeavours to build up an economic system which shall ensure uniform development throughout the whole of the country. One of the reasons for the preponderant activity of the Central Legislature in this respect has undoubtedly been the opportunity provided by the discussion of the Geneva measures; the Geneva Conventions and Recommendations are considered only by the Central Legislature and not by the provincial legislature. However that may be, the fact remains that the provincial governments have not taken advantage of the legislative powers which they at present enjoy, while the Central Legislature has shown itself more progressive in outlook and more active in fulfilling its declared intentions as regards the welfare of the worker. Nor should we forget how provincialisation of labour legislation would react on our relations with the I.L.O. I have already mentioned that, according to Article 405 of the Treaty, it is within the discretion of any federal government, the power of which to enter into Conventions on labour matters is subject to limitations, to treat a Draft Convention to which such limitations apply as a Recommendation only. And since a Recommendation has considerably less influence in affecting the course of national labour legislation than a Draft Convention, any limitations placed upon the federal government's authority to ratify Geneva Conventions would *ipso facto* weaken the healthy influence which is now being exercised by Geneva in effecting social reforms in this country. The workers of India would thereby be deprived of the advantage that they

derive at present from the International Labour Conference, and the possibility of ratifications hereafter will be seriously jeopardised. There is also the further question whether any such far-reaching constitutional change as complete provincialisation of labour, which would materially alter India's present relations with the I. L. O., would not constitute an illegal evasion of her international obligations and responsibilities. It is, therefore, in the larger interests of the country that we advocate the retention and development of labour as a federal subject in the new constitution, while the provincial governments may be given, as heretofore, a large degree of freedom to initiate labour legislation on matters not already regulated by the federal legislature.

An important fact which emerges from our examination of these problems is that the dominant principle enunciated in Part XIII of the Peace Treaty, if vigorously followed to its logical conclusion, will materially hasten the process of India's conversion from a geographical expression into a compact and well-consolidated economic and political unit, in which the individual States and Provinces will still retain their freedom of action, subject only to the paramount reservation that, where economic and social programmes in which the entire country is interested are concerned, the power of initiative will rest with the federal authorities. It follows, then, that the I.L.O. has a valuable lesson to teach us, not only in our efforts at social reconstruction, but also in settling the future lines of our constitutional advance. This leads us to a further aspect of the I.L.O's work, in which its many comparatively narrow objectives, such as the reduction of the working-day or the establishment of social



insurance systems, broaden out to reveal its higher and ultimate purpose of bringing into being a world-wide industrial democracy in which all men can find material happiness and spiritual well-being. In this connection, it is necessary to cast a glance backward, and review the main political tendencies that have been making themselves felt in the world not only after, but even before, the Great War, so that we may be in a position to appreciate how the I.L.O. works for the fulfilment of the "one increasing purpose," which, according to the poet, runs through all the ages. It is obviously impossible for us to survey the evolution of the forms of political government from the unbridled autocracy of ancient times to the systems of democracy which prevail at the present day. Suffice it<sup>to</sup> say that the most potent political force of the 19th century and after has been the hankering after political and social liberty, the dual aspects of which,—as typified by the spirit of Nationalism and the spirit of Democracy,—are summed up in President Wilson's happy expression "Self-Determination of the People." The 19th century is commonly designated the century of nationalism, but it will be no less accurate to call it the century of democratic progress. Nationalism invariably leads to democracy, for nationalism is the sentiment felt by all people inhabiting a common territory or inheriting a common historical, cultural or ethnical tradition which holds them together by a common pride in their nationality. It is a great cohesive force, and under its sway, people who are disunited or are under the domination of foreigners become unhappy and agitated and endeavour continuously to achieve unity and win freedom. It is only where such unity and freedom have

been achieved that democratic institutions can strike deep root and flourish, because the mutual sympathy, born of an identity of interests and similarity of sentiments, which makes possible the cheerful acquiescence of the minority in the decisions taken by a majority, would otherwise be absent. Within the confines of any particular country the people of which have attained a fair degree of unity and have succeeded in throwing off the foreign yoke, there is a tendency for nationalism to transform itself into democracy, raising the depressed classes, and it may be, sometimes depressing the privileged ones, so that the rights and responsibilities of government are divided amongst the citizens in equal proportion. The process is invariably a slow one, but that this transformation is taking place is amply demonstrated by the history of our own times. It is only comparatively recently that we have begun to be familiar with the idea of the "national state," in which the boundaries of the nation and of the territory it occupies have become co-terminous, to form in their *ensemble* a political unit. Most of the European countries are today "national states," and the keen controversies excited by the sequestration of certain "national" minorities in the territories ruled over by people of another nationality, such, for example, as the Hungarians in Roumania or the Germans in Poland, show how the yeast of nationalism is still active on the Continent. But we are here concerned not so much with the rise of nationalism as with the spread of the democratic movement to which it has led. It would be wearisome to give a list of the countries which, one after another, have adopted the democratic regime. All the countries of Europe with two remarkable exceptions, all the count-

ries of the two American continents, the colonies of the British Empire—these have now adopted democracy as their ideal; and even in those countries where the outward symbols of an older system of government are still maintained, parliamentary forms and institutions are nevertheless being introduced, though in some instances they have become a mere cloak to hide the devices by which corrupt cliques or classes have managed to concentrate political power in their own hands. The countries of Asia have not been immune from this influence. Japan, though still preserving the outward trappings of imperial rule, has already become saturated with the principles of parliamentary government, and has become the exemplar of the East in this respect. In most of the other eastern countries, the dual process connoted by the expression “political self-determination” has already set in; and while, on the one hand, there has been a general uprising against foreign influence and control, there has been, on the other, a genuine attempt to set their own house in order by abolishing privileges and extending the meaning and benefits of citizenship to all alike in the land. It is thus that, in China, we find the struggle against what are called ‘unequal treaties’ being carried on side by side with attempts at internal social and political reconstruction; that, in our own country, politicians have joined hands with social reformers to carry on the battle both against the abuses of the existing social order and against the emasculating influence of external dictatorship; that, in Afghanistan and Persia, successful attempts of a sort have been made to keep the foreigner at bay while at least the outward forms of democracy have been introduced, more perhaps to satisfy the rulers’ vanity

than to meet any real demands of the people; that, in Turkey, the purging of all forms of external control has been accompanied by root and branch reform in social matters.

The triumphant march of the democratic idea is thus indicated by the increasing allegiances it is winning for itself; but this should not blind us to the fact that the political changes that have been brought about as a result of the adoption of the democratic principle have in many notable instances led to disappointment and confusion, resulting, in some countries at least, in a profound disillusionment in its efficacy. In Italy and Russia, the two notable European exceptions, we have today the overt manifestation of this feeling of disillusionment, which has resulted in the setting up of virtual dictatorships; and even in those countries, like Great Britain, for instance, where democracy has become too firmly planted to be up-rooted all of a sudden, signs are not wanting to show that democracy does not always yield all that is expected of it. The reason for this waning faith in democracy is not far to seek. It consists in the cardinal fact that the introduction of democracy has not in all cases been preceded by arrangements for preparing the people for shouldering its inherent responsibilities. If every citizen is to have his own share in determining the destinies of his fellows, it becomes the duty of the State to ensure that, so far as it is possible, he is equipped for the task. But in many countries no such preliminary preparation was made, and it is not surprising that the people did not know how to take advantage of the new opportunities for self-government offered to them. It is a bad workman that quarrels with his tools, and the

responsibility for the jolts and creaks in the working of the democratic machinery lies not in the machinery at all, but in the fact that its tending has been entrusted to untrained and unskilled hands. The very history of the evolution of democracy shows that it is an attempt to better previous methods of government; one-man-rule having been found disastrous to the interests of the governed, we have had a transition from monarchy to aristocracy. But aristocracy itself not having been able to rise above the petty considerations of self-aggrandisement, the people have taken back into their own hands the ordering of their political and social life. Democracy failing, we are left with no alternative other than that of going back to methods and systems which have been already tried and condemned. But why should democracy fail? That it is more instinct with vitality than other forms of government is proved by its having withstood the test of the great ordeal of the War; it was the autocracies that were swept away by it; all democratically organised States have remained rock-firm.

What is therefore needed for the successful establishment of the democratic principle is that the ground must be made ready for it to strike deep root. The necessity for this work of preparing the people for democracy has already been perceived in many States, where, side by side with the change in political institutions, steps have been taken for enforcing schemes of universal popular education. But education for citizenship is not the same thing as imparting instruction in reading, writing and arithmetic; it goes much farther and envisages the making of ample provision for continuous self-education throughout the entire period of the work-

ing life of the citizen. It is only then that the citizen will be able to realise the importance of his own rôle in the governance of his country. Otherwise, it is only the outer husk of democracy, its external trappings and embellishments in the form of councils and parliaments, that will survive; and cliques and caucuses will continue to rule as before. The provision of opportunities for universal education is thus inseparable from the successful functioning of real democracy.

Another line of preparation for democracy is the utilisation of the power of the State to abolish gross inequalities of wealth. Education can equip the citizen with a sense of discrimination and judgment in political matters, but it cannot equalise the opportunities for an untrammelled exercise of his civic rights. It is because of this that latterly there has been such an insistent demand that the democratic spirit should find expression in the social and economic spheres, and it is no strange coincidence that those democracies which function most successfully are those which have made organised attempts to attack poverty and to ensure distributive justice. This is the explanation for the manifold extension of the functions of a modern government. Political theorists of an earlier time, while holding that all government was evil, were more or less agreed that it was a necessary evil; and they were therefore anxious to limit governmental functions to the two essential duties of defending the country against foreign invasion and maintaining law and order within its own frontiers. An analysis of the budgets of modern governments during the last decade shows us, however, that it is not these primary functions of government, but its secondary functions, such as the


establishment of the various social services, which promise to absorb the State's attention in the future. And in proportion as these new functions of the government grow in range and importance will the people become more prepared to effectively exercise their duties of intelligent citizenship.

To the I.L.O. belongs the credit of having first drawn prominent attention to the fact that the improvement of the conditions of life of the citizen is one of the main ends of political action, and it is by the emphasis it has laid on this aspect of government that it has established its claim as an upholder of real democracy. Democracy, in fact, requires for its full fruition not only the establishment of political, but also of social, equality. It is only then that we shall be able to shake the ordinary citizen out of his passive acquiescence in the existing order, and fire him with enough enthusiasm to demand a share of, and actively participate in, the burdens of government. The vote is, of course, a potent political weapon, but to ensure the success of the democratic experiment we shall have to do something more than establishing universal adult franchise. In addition must be created those conditions and circumstances which will render it possible and easy for the voter to exercise his political rights. The Nehru Report may advocate adult suffrage, but I doubt whether it is sufficiently realised how inadequate this reform will be for the ushering in of a democratic era in India unless it is accompanied by other social and economic reforms of a radical character. To cite an instance, we are all agreed that democracy and slavery are mutually contradictory terms. Nevertheless, we have in India a large class of agricultural workers

who are slaves in all but the name and of whom it has been said that "they are not employed at their own convenience on wages but are maintained usually or hereditarily as permanent estate servants by the larger landlords—furnished by these with homes and food and not regarded as in a position to resign service and seek any other occupation." The question arises as to how economically depressed classes of this description can be reclaimed from helotry and converted into useful citizens, effectively participating in the ordering of the lives of themselves and their fellow citizens. The mere bestowal of political privileges on such a class is not likely to lead to their redemption, but will, on the other hand, become the surest means of perpetuating the political predominance of their masters belonging to the privileged classes. It is thus clear that the grant of political privileges to classes which are still in the bonds of social and economic servitude will only result in the creation of autocracies and despotisms in a new form. The modern tyrant may indeed be a benevolent despot, but that is beside the point. What is relevant is that he can govern without the continuous co-operation of the governed by flattering and cajoling an ignorant mob incapable of judgment till, bemused, it gives up into his hands the uncontrolled power of directing its destinies. Tyrants of the old school relied on standing armies for the maintenance of their power; those of our times rely rather on the ignorance and inertia of the people and on their own wit and wiles. To prevent the recrudescence of the old evil of despotism in its modern garb, it is necessary to seek the active co-operation of the people in each country. In the case of the depressed classes of India whose in-



stance I have cited, Geneva, with her Slavery Convention of 1926, and the proposed International Convention on Forced Labour, seeks to prepare them for democracy by first freeing them from their economic servitude. It is true that the work of the League Organisation in this respect is based on the doctrine of social justice, but it will not be gainsaid that such work has a direct bearing on the establishment of democracy in this country. The extension of activities of this character in the field of social reform, brought about as a direct result of our connection with Geneva, makes it possible for us to see the Preamble to Part XIII of the Peace Treaty in a new light. From this point of view, it ceases to be merely a labour charter, but stands transfigured as the Magna Carta of real democracy. For, as a keen student of constitutional theory has pointed out: "Can it be denied that the efforts of the International Labour Organization to obtain for the worker leisure for the comprehension and exercise of his duties as a citizen, relief from the preoccupations of uncertain employment, protection against industrial risks and their demoralizing consequences, security against exploitation of women and children, are a real contribution to the basis on which the democratic structure of the world now rests? And is it not certain that, in the degree in which those efforts are successful, the chances of interested or unscrupulous political exploitation will be diminished, and the guarantees of peaceful relations between peoples increased?"



## SUGGESTIONS FOR FURTHER READING.

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5. "History of the International Labour Office," by the Rt. Hon. G. N. Barnes. Williams and Norgate, London, 1926.
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